3-396.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~289~~. 93

THE MUTUAL LIFE-INSURANCE COMPANY OF NEW YORK, PLAINTIFF IN ERROR,

vs.

LEWIS W. SNYDER.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

FILED OCTOBER 6, 1874.

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assumed

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INDEX.

	Original.	Print.
Writ of summons and return thereto	2	1
Copy of instruments on which plaintiff's claim is founded	3	2
Narr	13	5
Affidavit of defense	28	9
Plea of non-assumpsit	31	10
Leave of court obtained for withdrawing plea of non-assumpsit, and filing new pleas	32	11
New pleas	33	11
Replications	47	15
Rejoinders	56	17
Verdict	57	18
Judgment on verdict	58	18
Citation sur writ of error	59	18
Bond sur writ of error	60	18
Bill of exceptions	63	20
Specifications of error	120	66
Writ of error	123	67
Certificate of clerk	125	68

1 In the circuit court of the United States in and for the eastern district of Pennsylvania, in the third circuit.

LEWIS W. SNYDER, A CITIZEN OF PENNSYLVANIA,
vs.
THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK.
} No. 32. October sessions, 1873.

UNITED STATES OF AMERICA,
Eastern District of Pennsylvania, ss:

Pleas and proceedings before the honorable the judges of the circuit court of the United States in and for the eastern district of Pennsylvania, in the third circuit, of October sessions, 1873. No. 32.

It is thus contained:

Be it remembered that on the first day of November, in the year of our Lord one thousand eight hundred and seventy-three, Lewis W. Snyder, by his attorneys, Edward J. Fox, esquire, and Henry Green, esquire, comes into court here and sues forth therefrom a writ of summons against the Mutual Life-Insurance Company of New York, which, with the endorsement and return thereto, is in the words and figures following, to wit:

2 UNITED STATES,
Eastern District of Pennsylvania, sct:

[SEAL. U. S. CIRCUIT COURT, E. D. PENNSYLVANIA.] The President of the United States to the marshal of the eastern district of Pennsylvania, greeting:

We command you that you summon the Mutual Life-Insurance Company of New York, a corporation created and established by the laws of the State of New York, late of your district, if it may be found therein, so that it be and appear before the judges of the circuit court of the United States in and for the eastern district of Pennsylvania, of the third circuit, at a session of the same court to be holden at Philadelphia on the first Monday of December next, to answer to Lewis W. Snyder, a citizen of Pennsylvania, in a plea of trespass on the case; and have you then there this writ.

Witness the honorable Nathan Clifford, associate justice of the Supreme Court of the United States, at Philadelphia, this first day of November, A. D. 1873, and in the ninety-eighth year of the Independence of the United States.

W. GRIER HIBLER,
Pro Clerk of Circuit Court U. S.

(Indorsed:) No. 32. Circuit court, October session, 1873. Lewis W. Snyder, a citizen of the State of Pennsylvania, v. The Mutual Life-Insurance Company of New York. Summons. Case. F. W. Vanuxem, agent. Returnable on the first Monday of December next. Edward J. Fox, Henry Green, attorney' for plaintiff. Filed December 1, 1873. 317. $2.40.

I certify that on the 3rd day of November, 1873, at Philadelphia, in my district, I personally served the within writ. F. W. Vanuxem, agent

of the within-named The Mutual Life-Ins. Company of New York, by reading the same in his hearing and leaving a true and attested copy thereof with him.

So answers—

JAMES N. KERNS,
U. S. Marshal,
Per J. A. GREGORY,
Deputy.

3 And thereupon afterwards, to wit, on the tenth day of December, A. D. 1873, the plaintiff, by her attorneys, comes into court here, and files copy of instruments on which plaintiff's claim is founded; which, being read, is as follows, to wit:

In the circuit court of the United States, eastern district of Pennsylvania.

LEWIS W. SNYDER, A CITIZEN OF PENNSYLVANIA,
vs.
THE MUTUAL LIFE-INSURANCE COMPANY OF NEW York, a corporation created and established by the laws of the State of New York.
} No. 32 October sessions, 1873.

The above-stated action is brought upon two policies of insurance upon the life of Monroe Snyder, who died on the twenty-first day of February, anno Domini eighteen hundred and seventy-three, true copies of which said policies are hereunto annexed.

EDWARD J. FOX,
HENRY GREEN,
Attys. for Plaintiff.

4

No. 134633.] Age, 53 years. [Amount, $10,000.

THE MUTUAL LIFF-INSURANCE COMPANY OF NEW YORK,

In consideration of the representations made to them in the applica-
Annual premiums, $543.10. tion for this policy, and of the sum of five hundred and forty-three dollars and ten cents, to them duly paid by Lewis W. Snyder, son of Monroe Snyder, and of the annual payment of a like amount on or before the twentieth day of September in every year during the continuance of this policy, do insure the life of the said Monroe Snyder, of Bethlehem, in the county of Northampton, State of Pennsylvania, in the amount of ten thousand dollars, for the term of his natural life.

And the said company do hereby promise and agree to pay the amount of the said insurance, at their office in the city of New York, to the said assured, his executors, administrators, or assigns, in sixty days after due notice and proof of the death of the said person whose life is hereby insured, the balance of the year's premium, if any, being first deducted therefrom.

This policy is issued, and accepted by the assured, upon the following express conditions and agreements:

5 1st. If the said person whose life is hereby insured shall pass or remain beyond the settled limits or the protection of the Government of the United States, (excepting into the settled limits of the British Provinces;) or north of the 50th degree of north latitude; or

between the 1st of July and the 1st of November, south of the parallel of 36° 30′ of north latitude, (except between the parallels 36° 30′ and 32° of north latitude, east of the Tennessee River and the westerly line of the State of Alabama, and not less than one hundred miles west of the Atlantic coast of the United States;) or shall enter upon a voyage, upon the high seas; or shall be personally engaged in blasting, mining, submarine operations, or the production of highly inflammable or explosive substances; or in working or managing a steam-engine in any capacity; or as a mariner, engineer, fireman, conductor, or laborer in any capacity upon service on any sea, sound, inlet, river, lake, or railroad; or enter any military or naval service whatsoever, (excepting into the militia when not in actual service,) without the consent of this company, in each or either of the foregoing cases, previously given in writing; or if he shall die by his own act or hand, whether sane or

6 insane, or in or in consequence of a duel, or of the violation of the laws of any nation, State, or province; or if he shall aid and abet any insurrection against the United States, or perform any labor or service, civil or military, in aid of such insurrection; or, if any of the statements or declarations made in application for this policy, upon the faith of which this policy is issued, shall be found in any respect untrue, then and in every such case this policy shall be null and void.

2nd. This company does not assume the risk of death from hostile Indians.

3rd. If the said premiums shall not be paid on or before the days above mentioned for the payment thereof, at the office of the company in the city of New York, (unless otherwise expressly agreed in writing,) or to agents when they produce receipts signed by the president, or secretary, then, in every such case, the said company shall not be liable for the payment of the sum assured, or any part thereof, and this policy shall cease and determine.

4th. In every case when this policy shall cease and determine, or be null and void, all payments thereon shall be forfeited to this com-

7 pany, except that in case of the death of the insured by his own act or hand, the company will return the premiums paid.

5th. If this policy should be assigned or held as security, written notice shall be given to this company, and due proof of interest produced, with proofs of death.

In witness whereof the said The Mutual Life-Insurance Company of New York have, by their president and secretary, signed and delivered this contract this twentieth day of September, one thousand eight hundred and seventy-two.

F. W. WINSTON,
President.

JNO. M. STUART,
Secretary.

8 No. 132742.

THE MUTUAL LIFE-INSURANCE COMPANY OF NEW YORK.

Annual premium, $517.80 Age, 52 years.] [Amount, $10,000.

In consideration of the representations made to them in the application for this policy, and of the sum of five hundred and seventeen dollars and eighty cents, to them duly paid by Lewis W. Snyder, son of Monroe Snyder, and of the annual payment of a like amount on or be-

15 main beyond
the Government of the

fore the eleventh day of July in every year during the continuance of this policy, do insure the life of the said Monroe Snyder, of Bethlehem, in the county of Northampton, State of Pennsylvania, in the amount of ten thousand dollars, for the term of his natural life.

And the said company do hereby promise and agree to pay the amount of the said insurance, at their office in the city of New York, to the said assured, his executors, administrators, or assigns, in sixty days after due notice and proof of the death of the said person whose life is hereby insured, the balance of the year's premium, if any, being first deducted therefrom.

This policy is issued, and accepted by the assured, upon the
9 following express conditions and agreements:

1st. If the said person whose life is hereby insured shall pass or remain beyond the settled limits or the protection of the Government of the United States, (excepting into the settled limits of the British Provinces;) or north of the 50th degree of north latitude; or between the 1st of July and the 1st of November, south of the parallel of 36° 30′ of north latitude, (except between the parallels 36° 30′ and 32° of north latitude, east of the Tennessee River and the westerly line of the State of Alabama, and not less than one hundred miles west of the Atlantic coast of the United States;) or shall enter upon a voyage upon the high seas; or shall be personally engaged in blasting, mining, submarine operations, or the production of highly inflammable or explosive substances; or in working or managing a steam-engine in any capacity; or as a mariner, engineer, fireman, conductor, or laborer in any capacity upon service on any sea, sound, inlet, river, lake, or railroad; or enter any military or naval service whatsoever, (excepting into the militia when not in actual service,) without the consent of this company, in each or either of the foregoing cases, previously given
10 in writing; or if he shall die by his own act or hand, whether sane or insane, or in or in consequence of a duel, or of the violation of the laws of any nation, State, or province; or if he shall aid or abet any insurrection against the United States, or perform any labor or service, civil or military, in aid of such insurrection; or, if any of the statements or declarations made in the application for this policy, upon the faith of which this policy is issued, shall be found in any respect untrue, then and in every such case this policy shall be null and void.

2nd. This company does not assume the risk of death from hostile Indians.

3rd. If the said premiums shall not be paid on or before the days above mentioned for the payment thereof, at the office of the company in the city of New York, (unless otherwise expressly agreed in writing,) or to agents when they produce receipts signed by the president or secretary, then, in every such case, the said company shall not be
11 liable for the payment of the sum assured, or any part thereof, and this policy shall cease and determine.

4th. In every case when this policy shall cease and determine, or become or be null and void, all payments thereon shall be forfeited to this company, except that in case of the death of the insured by his own act or hand, the company will return the premiums paid.

5th. If this policy should be assigned or held as security, written notice shall be given to this company, and due proof of interest produced with the proofs of death.

In witness whereof the said The Mutual Life-Insurance Company of New York have, by their president and secretary, signed and delivered

this contract this eleventh day of July, one thousand eight hundred and seventy-two.

Fr. Schroeder, as't. secretary.

RICHARD W. McCURDY,
Vice-President.

12 (Endorsed:) No. 32. October sess., 1873. Lewis W. Snyder, a citizen of Penna., vs. The Mutual Life-Insurance Company of New York. Copy of instruments on which plaintiff's claim is founded. Fox, Green, for plff. Filed Decr. 10, 1873.

13 And afterwards, to wit, on the tenth day of December, A. D. 1873, the plaintiff, by his attorneys, Edward J. Fox, esq., and Henry Green, esq., comes into court here and files his declaration, which, being read, is as follows, to wit:

In the circuit court of the United States, of October sessions, 1873.
No. 32.

EASTERN DISTRICT OF PENNSYLVANIA, *ss:*

The Mutual Life-Insurance Company of New York, a corporation created and established by the laws of the State of New York, was summoned to answer Lewis W. Snyder, a citizen of Pennsylvania, of a plea of trespass on the case, &c.

And thereupon the said plaintiff, by Edward J. Fox and Henry Green, his attorneys, complains, for that whereas the said defendant heretofore, to wit, on the eleventh day of July, anno Domini eighteen hundred and seventy-two, at New York, to wit, at the district aforesaid, caused to be made a certain writing or policy of assurance, purporting thereby, and containing therein, that in consideration of the sum of five hundred and seventeen dollars and eighty cents, then paid by the said plaintiff to the said defendant, the receipt of which was acknowledged by the said defendant in and by the said policy, and of the further payment of a like amount in annual pay-
14 ments on or before the eleventh day of July in every year during the continuance of the said policy by the said Lewis W. Snyder, the said defendant would, and did, insure the life of Monroe Snyder, of Bethlehem, in the county of Northampton and State of Pennsylvania, for the sole use of the said plaintiff, in the sum of ten thousand dollars, for the term of his natural life, upon the terms and conditions in the said policy expressed and contained.

And thereupon, afterwards, to wit, on the day and year aforesaid, at the district aforesaid, in consideration that the said plaintiff, at the special instance and request of the said defendant, had then and there paid to the said defendant the said sum of five hundred and seventeen dollars and eighty cents as a premium and reward for the insurance of ten thousand dollars upon the life of the said Monroe Snyder, and had then and there undertaken and faithfully promised the said defendant to perform and fulfill all things in the said writing or policy of assurance contained, either on the part of the said plaintiff or of the said Monroe Snyder, to be performed and fulfilled, the said defendant undertook and then and there faithfully promised the said plaintiff that the said defendant would insure the life of the said Monroe Snyder in the amount of ten thousand dollars, upon the following terms and conditions, to wit,
15 that if the said Monroe Snyder should pass or remain beyond the settled limits or the protection of the Government of the

United States (excepting into the settled limits of the British Provinces;) or north of the 50th degree of north latitude; or, between the first of July and the first of November, south of the parallel of 36 degrees thirty minutes of north latitude, (except between the parallels of 36° 30′ and 32° of north latitude, east of the Tennessee River and the westerly line of the State of Alabama, and not less than one hundred miles west of the Atlantic coast of the United States;) or should enter upon a voyage upon the high seas; or should be personally engaged in blasting, mining, submarine operations, or the production of highly inflammable or explosive substances; or in working or managing a steam-engine in any capacity; or as a mariner, engineer, fireman, conductor, or laborer in any capacity, upon service on any sea, sound, inlet, river, lake, or railroad, or enter any military or naval service whatsoever, (excepting into the militia when not in actual service,) without the consent of the defendant, in each or either of the foregoing cases previously given in writing; or if he should die by his own act or hand, whether sane or insane, or in
16 or in consequence of a duel, or of the violation of the laws of nation, state, or province, or if he should aid or abet any insurrection against the United States, or perform any labor or service, civil or military, in aid of such insurrection; or if any of the statements or declarations made in the application for the aforesaid policy, upon the faith of which the said policy was issued, should be found in any respect untrue, then and in every such case the said policy should be null and void, and upon the further stipulations that the said defendants did not assume the risk of death from hostile Indians; and that if the said premiums should not be paid on or before the day therein mentioned for the payment thereof, at the office of the said company in the city of New York, (unless otherwise expressly agreed in writing,) or to agents when they produced receipts signed by the president or secretary, then and in every such case the said defendant should not be liable for the payment of the sum assured or any part thereof, and the said policy should cease and determine; and would perform and fulfill all things in the said writing or policy of assurance contained on the part and behalf of the said defendant to be performed and fulfilled, and did
17 promise and agree to pay the amount of the said insurance at their office, in the city of New York, to the said plaintiff, if living, and if not living, to his executors or administrators, in sixty days after due notice and proof of the death of the said Monroe Snyder, the balance of the year's premium, if any, being first deducted therefrom, and upon the further condition that in every case when the said policy should cease and determine, or become or be null and void, all payments thereon should be forfeited to the company, except that, in case of the death of the insured by his own act and hand, the said defendant would return the premiums paid; and the said defendant then and there, by its vice-president, Richard W. McCurdy, and its assistant secretary, F. Schroeder, subscribed the said writing or policy of assurance.

And the said plaintiff in fact saith that at the time of making the said writing or policy of assurance, the said Monroe Snyder was in good health, and that the said plaintiff was interested in the life of the said Monroe Snyder to a large amount, to wit, to the amount of all the moneys by him ever insured or caused to be insured thereon, to wit, at the county aforesaid.

18 And the said plaintiff in fact further saith, that after the making of the said policy of assurance, to wit, on the twenty-first day of February, in the year of our Lord eighteen hundred and seventy-three, the said Monroe Snyder, at the county aforesaid, died and deceased out

of his natural life, by other ways and means than by his own act or hand, or in or in consequence of a duel, or of the violation of the laws of any nation, state, or province, or by the act of hostile Indians; and without having violated any of the conditions, stipulations, or provisions in the said policy of insurance contained, of all which said several premises the said defendant, afterwards, to wit, on the day and year last aforesaid, at the county aforesaid, had notice, and was then and there requested by the said plaintiff to pay him the said sum of ten thousand dollars, so by the said defendant to the said plaintiff assured as aforesaid, and which said sum of ten thousand dollars the said defendant ought then and there to have paid the said plaintiff, according to the form and effect of the promise and undertaking of the said defendant so made as aforesaid.

2D COUNT.—And whereas also the said defendant heretofore, to wit, on the twentieth day of September, anno Domini eighteen hun-
19 dred and seventy-two, at New York, to wit, at the county aforesaid, caused to be made a certain writing or policy of assurance, purporting thereby and containing therein that in consideration of the sum of five hundred and forty-three dollars and ten cents, then paid by the said plaintiff to the said defendant, the receipt of which was acknowledged by the said defendant in and by the said policy, and of the further payment of a like amount in annual payments on or before the twentieth day of September in each year during the continuance of the said policy by the said Lewis W. Snyder, the said defendant would and did insure the life of the said Monroe Snyder, of Bethlehem, in the county of Northampton, and State of Pennsylvania, for the sole use of the said plaintiff, in the sum of ten thousand dollars, for the term of his natural life, upon the terms and conditions in the said policy expressed and contained, and thereupon, afterwards, to wit, on the day and year aforesaid, at the county aforesaid, in consideration that the said plaintiff, at the special instance and request of the said defendant, had then and there paid to the said defendant the said sum of five hundred
20 and forty-three dollars and ten cents as a premium and reward for the insurance of ten thousand dollars upon the life of the said Monroe Snyder, and had then and there undertaken and faithfully promised the said defendant to perform and fulfill all things in the said writing or policy of assurance contained either on the part of the said plaintiff or of the said Monroe Snyder to be performed and fulfilled, the said defendant undertook and then and there faithfully promised the said plaintiff that the said defendant would insure the life of the said Monroe Snyder in the sum of ten thousand dollars, upon the following terms and conditions, to wit:

That if the said Monroe Snyder should pass or remain beyond the settled limits or the protection of the Government of the United States, (excepting into the settled limits of the British Provinces;) or north of the 50th degree of north latitude; or, between the 1st of July and the 1st of November, south of the parallel of 36 degrees thirty minutes of north latitude, (except between the parallels of 36° 30′ and 32° of north latitude, east of the Tennessee River and the westerly line of the State of Alabama, and not less than one hundred miles west of the Atlantic
21 coast of the United States;) or should enter upon a voyage upon the high seas; or should be personally engaged in blasting, mining, submarine operations, or the production of highly inflammable or explosive substances; or in working or managing a steam-engine in any capacity; or as a mariner, engineer, fireman, conductor, or laborer in any capacity, upon service on any sea, sound, inlet, river, lake, or rail.

road; or enter any military or naval service whatsoever, (excepting into the militia when not in actual service,) without the consent of the defendant, in each or either of the foregoing cases, previously given in writing; or if he should die by his own act or hand, whether sane or insane, or in or in consequence of a duel, or of the violation of the laws of any nation, state, or province; or if he should aid or abet any insurrection against the United States, or perform any labor or service, civil or military, in aid of such insurrection; or if any of the statements or declarations made in the application for the aforesaid policy, upon the faith of which the said policy was issued, should be found in any respect untrue, then and in every such case the said policy should be null and void, and upon the further stipulations that the said
22 defendant did not assume the risk of death from hostile Indians, and that if the said premiums should not be paid on or before the days therein mentioned for the payment thereof, at the office of the said company, in the city of New York, (unless otherwise expressly agreed in writing,) or to agents when they produced receipts signed by the president or secretary, then, and in every such case, the said defendant should not be liable for the payment of the sum assured or any part thereof, and the said policy should cease and determine; and would perform and fulfill all things in the said writing or policy of assurance contained on the part and behalf of the said defendant to be performed and fulfilled, and did promise and agree to pay the amount of the said insurance, at their office in the city of New York, to the said plaintiff, if living, and if not living, to his executors, administrators, in sixty days after due notice and proof of the death of the said Monroe Snyder, the balance of the year's premium, if any, being first deducted therefrom; and upon the further condition that in every case when the said policy should cease and determine, or become or be null and void, all payments therein should be forfeited to the company, except that
23 in case of the death of the insured, by his own act or hand, the said defendant would return the premiums paid; and the said defendant then and there, by its president, F. S. Winston, and its secretary, John M. Stuart, subscribed the said writing or policy of assurance.

And the said plaintiff in fact saith that at the time of making the said writing or policy of assurance, the said Monroe Snyder was in good health, and that the said plaintiff was interested in the life of the said Monroe Snyder to a large amount, to wit, to the amount of all the moneys by him ever insured or caused to be insured thereon, to wit, at the county aforesaid. And the said plaintiff in fact further saith, that after the making of the said policy of assurance, to wit, on the twenty-first day of February, in the year of our Lord eighteen hundred and seventy-three, the said Monroe Snyder, at the county aforesaid, died and deceased out of his natural life by other ways and means than by his own act or hand, or in or in consequence of a duel, or of the violation of any laws of any nation, state, or province, or by the act of hostile Indians, and without having violated any of the conditions, stipu-
24 lations or provisions in the said policy of insurance contained, of all which said several premises the said defendant afterwards, to wit, on the day and year last aforesaid, at the county aforesaid, had notice, and was then and there requested by the said plaintiff to pay him the said last-mentioned sum of ten thousand dollars, so by the said defendant to the said plaintiff assured as aforesaid, and which said sum of ten thousand dollars the said defendant ought then and there to have

paid the said plaintiff according to the form and effect of the promise and undertaking of the said defendant so made as aforesaid.

25 And whereas, also, the said defendant, on the first day of May, one thousand eight hundred and seventy-three, at the county aforesaid, was indebted to the said plaintiff in the further sum of twenty thousand dollars, lawful money of the United States of America, for so much money by the said defendant before that time had and received to and for the use of the said plaintiff, and, being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, at the county aforesaid, undertook and faithfully promised the said plaintiff to pay him the said sum of money when the said defendant should be thereunto afterwards requested.

26 And whereas, also, the said defendant, on the first day of May, one thousand eight hundred and seventy-three, at the county aforesaid, was indebted to the said plaintiff in the further sum of twenty thousand dollars, lawful money of the United States of America, for so much money by the said plaintiff before that time lent and advanced to the said defendant at their special instance and request.

And being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, at the county aforesaid, undertook and faithfully promised the said plaintiff to pay him the said sum of money when the said defendant should be thereunto afterwards requested.

27 Nevertheless, the said defendants, not regarding their said several promises and undertakings, but contriving and fraudulently intending craftily and subtly to deceive and defraud the said plaintiffs in this behalf, have not as yet paid the said several sums of money or any or either of them, or any part thereof, to the said plaintiffs, (although often requested so to do;) but the said defendants to pay them the same have hitherto wholly neglected and refused, and still do neglect and refuse, to the damage of the said plaintiff fifty thousand dollars, and therefore he brings suit, &c.

JOHN DOE,
RICHARD ROE,
Pledges, &c.

HENRY GREEN,
Attorney for Plaintiff.

(Endorsed:) No. 32. October sess., 1873. Lewis W. Snyder, a citizen of Penna., vs. The Mutual Life-Insurance Company of New York. Narr.

DEC. 10, 1873.—Enter rule to plead in two weeks or judgment sec. reg.

EDWARD J. FOX,
Atty. for Plff.

Fox, Green. Filed Dec. 10, 1873.

28 And thereupon afterwards, to wit, on the nineteenth day of December, A. D. 1873, the defendants, by their attorney, William A. Porter, esquire, come into court here and file their affidavit of defence, which, being read, is as follows, to wit:

Circuit court of the United States, eastern district of Pennsylvania.

LEWIS W. SNYDER, A CITIZEN OF PENNSYLVANIA,
vs.
THE MUTUAL LIFE-INSURANCE COMPANY OF NEW York, a corporation created and established by the laws of the State of New York.
} No. 32. October sessions, 1873.

FREDERICK W. VANUXEM, being duly sworn according to law, says that he is one of the general agents of the defendant, and resides in Philadelphia; that the writ issued in the above-mentioned case was served upon him as such agent, and so returned by the marshal; that on behalf of the company he has conferred with, and been advised by, its legal counsel resident in the said city; that he has examined the copies of the policies of insurance, with the statement of plaintiff's counsel thereon, filed in the said case; that he is advised by the defendant's counsel that they are not copies of such instruments of writing as would en-
29 title the plaintiff to a judgment of the court for the want of an affidavit of defence; that it does not appear from the copies of the instruments filed that Monroe Snyder, who is mentioned therein, is dead; that the statement of his death signed by the plaintiff's counsel is insufficient, inasmuch as such a fact is not necessarily within the knowledge of counsel, or within their province to make; that it does not appear by the copies of the instruments filed that, up to the period of the said Monroe Snyder's supposed death, the premiums mentioned in the said policies were paid, and such payments appear therein to have been a condition-precedent to the insurance of his life and to the continuance of the said insurance; that it does not appear from the copies filed that due notice, or any notice whatever, was given to the company of the supposed death of the said Monroe Snyder; that it does not appear from the copies filed that any proof of the supposed death of the said Monroe Snyder was given to the company; and that no suit could be brought on the said policies until the expiration of sixty days after due notice and proof of his death had been given to the said company.

30 The affiant further states that he is informed, advised, and believes that the defendant has a just and legal defence to the whole of the plaintiff's claim in the said action, and expects to prove the same before the court and jury on the trial of the said case.

F. W. VANUXEM.

W. GRIER HIBLER, U. S. COMMISSIONER, PHILADELPHIA. SEAL. } Sworn and subscribed before me this 19th day of December, A. D. 1873.

W. GRIER HIBLER,
U. S. Commissioner.

31 And afterwards, to wit, on the 20th day of December, A. D. 1873, the defendants, by their attorney, Wm. A. Porter, esq., file their plea, as follows, to wit:

Circuit court of the United States, eastern district of Pennsylvania.

LEWIS W. SNYDER, A CITIZEN OF PENNSYLVANIA,
vs.
THE MUTUAL LIFE-INSURANCE COMPANY OF NEW York.
} No. 32. October sessions, 1873.

The defendant pleads non assumpsit.

WM. A. PORTER,
For Defendant.

DEC'R 20TH, 1873.

32 And afterwards, to wit, on the 22nd day of April, A. D. 1874, the parties aforesaid, by their attorneys aforesaid, come into court here, and leave of the said court being first had and obtained, the plaintiffs file an amended declaration in No. 31, of October session, 1873. And also, by leave of court, the defendants withdraw their plea of non assumpsit, and are allowed to file new pleas, (in each case.)

And the counsel for the respective parties agree that both cases shall be tried together.

33 And thereupon, to wit, on the 22nd day of April, A. D. 1874, the defendants, by their attorneys, come into court here and file new pleas, which, being read, are as follows, to wit.

In the circuit court of the United States for the eastern district of Pennsylvania.

LEWIS W. SNYDER *vs.* THE MUTUAL LIFE-INSURANCE COMPANY of New York.	October sessions, 1873. No. 32.

Pleas.

(1.) And for a plea in this behalf as to the said first count of the declaration, the said defendants say that the said plaintiff ought not, &c., because they say that, although true it is that the said agreement in the said count mentioned was entered into between the plaintiff and these defendants in manner and form as therein mentioned, yet the defendants say that, after the said agreement was entered into between the plaintiff and defendants, the said Monroe Snyder, the insured, did

34 die by his own act and hand; and this the said defendants are ready to verify. Wherefore, &c.

And the said defendants aver that they are ready and willing to return to the said plaintiff the premiums paid by him or on his behalf at the time of and since the making of the policy of insurance declared upon according to the terms of the said policy, to wit, the sum of five hundred and eighteen dollars and eighty cents, and the said defendants now bring here into court the said sum of five hundred and eighteen dollars and eighty cents, and tender the same to the said plaintiff upon the cancellation and return to the defendants of the policy declared upon.

(2.) And for a further plea in this behalf to the said first count of the declaration, by leave of the court, &c., the said defendants say that the plaintiff ought not, &c., because, they say, that the said Monroe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because, they say, that in the application for insurance which defendants here bring into court, bearing date the ninth day of July, 1872, and upon the faith and in con-

35 sideration of which the said policy was issued as in the said declaration averred, and which application formed a part of said policy, in answer to question No. 17 of said application, viz, "How long since you were attended by a physician? For what diseases? Give name and residence of such physician?" the said Monroe Snyder falsely answered, "None since small-pox, thirty years ago," thereby asserting and answering to the defendants that he had not been attended by a physician for thirty years prior to July 9, 1872; whereas in truth and in fact the said Monroe Snyder, the insured, had been attended by a physician within less than ten years prior to July

9th, 1872; and this the said defendants are ready to verify, wherefore, &c.

(3.) And for a further plea in this behalf to the said first count of the declaration, by like leave of the court, &c., the said defendants say that the plaintiff ought not, &c., because, they say, that the said Monroe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because, they say
36 that, in the application for insurance which the defendants here bring into court, bearing date the ninth day of July, 1872, and upon the faith and in consideration of which said policy was issued, as in said declaration averred, and which application formed a part of said policy, in answer to the second part of question No. 17 thereof, viz, "Name and residence of your usual medical attendant?" the said Monroe Snyder falsely omitted to answer the said question, thereby alleging and answering to the defendants that he then had and had had "no usual medical attendant," whereby these defendants were deceived, whereas in truth and in fact the said Monroe Snyder, the insured, had had a usual medical attendant; and this they are ready to verify. Wherefore, &c.

(4.) And for a further plea in this behalf to the first count of the declaration, by like leave of the court, &c., the said defendants say that the said plaintiff ought not, &c., because, they say, that the said Monroe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because, they say, that in the
37 application for insurance, which the defendants here bring into court, bearing date the ninth day of July, 1872, and upon the faith and in consideration of which said policy was issued, as in said declaration averred, and which application formed a part of said policy, in answer to question No. 13 thereof, viz, "Have you ever had any of the following diseases: Spitting of blood, liver complaint, consumption, yellow fever, paralysis, palpitation, bronchitis, small-pox, rupture, apoplexy, insanity, scrofula, fistula, asthma, dropsy, fits, gout, palsy, bilious, renal or hepatic colic, rheumatism, and of what nature; disease of the heart, disease of the urinary organs, or of any other vital part? If so, state which, how recently, and the full particulars;" the said Monroe Snyder, the insured, falsely and fraudulently answered, "Small-pox; none of rest," thereby asserting and answering to the said defendants that he never had had any of the diseases named in the said question, or any disease of any other vital part other than small-pox, whereby these defendants were deceived.
38 Whereas in truth and in fact the said Monroe Snyder, the insured, then had had a disease of a vital part other than small-pox; and this the said defendants are ready to verify. Wherefore, &c.

(5.) And for a further plea in this behalf to the first count of the said declaration, by like leave of the court, &c., the said defendants say that the said plaintiff ought not, &c., because, they say, the said Monroe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because, they say, that in the application for insurance, which the defendants here bring into court, bearing date the ninth day of July, 1872, and upon the faith and in consideration of which said policy was issued, as in said declaration averred, and which application formed a part of said policy, in answer to the first part of question No. 14 A thereof, viz, "Have you ever had any serious illness, local disease, or personal injury? if so, of what nature?" the said Monroe Snyder falsely and fraudulently answered, "Small-pox thirty

years ago," thereby asserting and answering to the said defendants
39 that he then had had no serious illness, local disease, or personal injury other than small-pox, whereby these defendants were deceived, whereas in truth and in fact the said Monroe Snyder, the insured, had then had a local disease or personal injury other than small-pox; and this they are ready to verify. Wherefore, &c.

(6.) And for a plea in this behalf as to the said second count of the declaration, the said defendants say that the said plaintiff ought not, &c., because, they say, that although true it is that the said agreement in the said count mentioned was entered into between the plaintiff and the defendants in manner and form as therein mentioned, yet the defendants say that after the said agreement was entered into between the said plaintiff and the defendants, the said Monroe Snyder, the insured, did die by his own act and hand; and this the defendants are ready to verify. Wherefore, &c.

And the said defendants aver that they are ready and willing to return to the said plaintiff the premiums paid by him or on his be-
40 half at the time of and since the making of the policy of insurance declared upon, according to the terms of said policy, to wit, the sum of five hundred and forty-three dollars and ten cents, and the said defendants now bring here into court the said sum of five hundred and forty-three dollars and ten cents, and tender the same to the said plaintiff upon cancellation and return to the defendants of the policy declared upon.

(7.) And for a further plea in this behalf to the said second count of the declaration, by leave of the court, &c., the said defendants say that the plaintiff ought not, &c., because, they say, that the said Monroe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because they say that in the application for insurance which the defendants here bring into court, bearing date the eighteenth day of September, 1872, and upon the faith and in consideration of which the said policy was issued as in the said declaration averred, and which application formed a part of said pol-
41 icy, in answer to question No. 17 of said application, viz: "How long since you were attended by a physician? For what diseases? Give name and residence of such physician?" the said Monroe Snyder, the insured, falsely answered, "Not for twenty years," thereby asserting and answering to the defendants that he had not been attended by a physician for twenty years prior to September 18th, 1872; whereas in truth and in fact the said Monroe Snyder, the insured, had been attended by a physician within less than ten years prior to September 18th, 1872; and this the defendants are ready to verify. Wherefore, &c.

(8.) And for a further plea in this behalf to the said second count of the declaration, by like leave of the court, &c., the said defendants say that the plaintiff ought not, &c., because, they say, that the said Monroe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because, they say, that in the application for insurance which the defendants here bring into court, bearing date the eighteenth day of September, 1872, and upon the faith and in consideration of which the said policy
42 was issued, as in said declaration averred, and which application formed a part of said policy, in answer to the second part of question No. 17 thereof, viz: "Name and residence of your usual medical attendant?" the said Monroe Snyder falsely omitted to answer the said question, thereby alleging and answering to the defendants that he then had and had had "no usual medical attendant," whereby these

defendants were deceived; whereas in truth and in fact the said Monroe Snyder, the insured, had had a usual medical attendant, and this the said defendants are ready to verify. Wherefore, &c.

(9.) And for a further plea in this behalf to the second count of the declaration, by like leave of the court, &c., the said defendants say that the said plaintiff ought not, &c., because, they say, that the said Monroe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because, they say, that in the application for insurance, which the defendants here bring into court, bearing date the eighteenth day of September, 1872, and upon the faith of which said policy was issued, as in said declaration averred,
43 and which application formed a part of said policy, in answer to question No. 13 thereof, viz, "Have you ever had any of the following diseases: Spitting of blood, liver complaint, consumption, yellow fever, paralysis, palpitation, bronchitis, small-pox, rupture, apoplexy, insanity, scrofula, fistula, asthma, dropsy, fits, gout, palsy, bilious, renal or hepatic colic, rheumatism, and of what nature; disease of the heart, disease of the urinary organs, or of any other vital part? If so, state which, how recently, and the full particulars;" the said Monroe Snyder, the insured, falsely and fraudulently answered, "Small-pox; none of rest," thereby asserting and answering to the said defendants that he never had had any of the diseases named in the said question, or any disease of any other vital part other than small pox, whereby these defendants were deceived, whereas in truth and in fact the said Monroe Snyder, the insured, had then had a disease of a vital part other than small-pox; and this the said defendants are ready to verify. Wherefore, &c.

(10.) And for a further plea in this behalf to the second count of said declaration, by like leave of the court, &c., the said defendants
44 say that the said plaintiff ought not, &c., because, they say, that the said Monroe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because, they say, that in the application for insurance which the defendants here bring into court, bearing date the eighteenth day of September, 1872, and upon the faith and in consideration of which said policy was issued, as in said declaration averred, and which application formed a part of said policy, in answer to the first part of question No. 14 A thereof, viz, "Have you ever had any serious illness, local disease, or personal injury? If so, of what nature?" the said Monroe Snyder, the insured, falsely and fraudulently answered, "Small-pox," thereby asserting and answering to the said defendants that he then had had no serious illness, local disease, or personal injury other than small-pox, whereby these defendants were deceived; whereas in truth and in fact the said Monroe Snyder, the insured, had then had a local disease and personal injury other than small-pox; and this they are ready to verify. Wherefore, &c.

45 (11.) And for a plea in this behalf as to the said third and fourth counts of the declaration, the said defendants say that the said plaintiff ought not, &c., because, they say, that the said sums of money mentioned in the said counts of the declaration claimed to be due and owing by and from the said defendants to the said plaintiff are the moneys paid by or on behalf of the plaintiff for premiums of insurance under and upon certain policies of insurance issued by the said defendants to the said plaintiff upon the life of Monroe Snyder mentioned in the first and second counts of the declaration, to wit, the sum of five hundred and seventeen dollars and eighty cents upon a certain policy of insur-

ance of these defendants, dated the eleventh day of July, 1872, and the sum of five hundred and forty-three dollars and ten cents upon a certain policy of insurance of these defendants, dated the twentieth day of September, 1872, and not other moneys, and these defendants
46 aver that they are and always have been ready and willing to return to the said plaintiff the said sums of money so paid as premiums as aforesaid, according to the terms of the said policies of insurance, and the said defendants now bring here into court the said sums of money so as aforesaid paid as premiums, and tender the same to the said plaintiff upon the cancellation and return to the said defendants of the said aforementioned policies of insurance; and this they are ready to verify. Wherefore, &c.

47 And thereupon, afterwards, on the same day, to wit, the 22nd day of April, A. D. 1874, the plaintiff, by his attorneys, files his replications, which, being read, are as follows, to wit:

In the circuit court of the United States for the eastern district of Pennsylvania.

LEWIS W. SNYDER	}	
vs.	}	October sessions,
THE MUTUAL LIFE-INSURANCE COMPANY OF New York.	}	1873. No. 32.

Replications.

And the said plaintiff, as to the plea of non assumpsit of the said defendants by them above pleaded, and whereof they have put themselves upon the country, doth the like.

And the said plaintiff, as to the said plea of the said defendants by them first above pleaded to the first count of the said declaration, saith
48 that the said plaintiff, by reason, &c., ought not, &c., because he saith that the said Monroe Snyder did not die by his own hand and act, as in the said plea is alleged; and this he prays may be inquired of by the country.

And the said plaintiff, as to the said plea of the said defendants by them secondly above pleaded to the said first count of the said declaration, saith that by reason, &c., he ought not, &c. because he saith that the answer made by the said Monroe Snyder to the said question No. 17 of said application, to wit, "None since small-pox thirty years ago," was true in substance and in fact, because the said Monroe Snyder had not been attended by any physician for any disease since he was attended for small-pox thirty years before said application; and this he prays may be inquired of by the country.

And the said plaintiff, as to the said plea of the said defendants by them thirdly above pleaded to the said first count of the said
49 declaration, saith that by reason, &c., he ought not, &c., because he saith that the said defendant, at the time the said application was made and signed by the said Monroe Snyder, to wit, at the district aforesaid, waived and dispensed with any answer by the said Monroe Snyder to the second part of said question No. 17 in the said application contained, and accepted the premium paid by the said Monroe Snyder, and issued the said policy in the said first count of the said declaration mentioned, without requiring any answer to said second part of said question, without this, that the said Monroe Snyder falsely omitted to answer the said question, thereby alleging and answering to

the said defendant that he then had and had had no usual medical attendant, and that the said Monroe Snyder, in truth and in fact, had had a usual medical attendant; and this the said plaintiff prays
50 may be inquired of by the country.

And the said plaintiff, as to the said plea of the said defendants by them fourthly above pleaded to the said first count of the said declaration, saith that by reason, &c., he ought not, &c., because, he saith, that the said Monroe Snyder did truthfully and without fraud answer to the said question No. 13 in the said application contained, as follows, to wit, "Small-pox, and none of rest," and in truth and in fact the said Monroe Snyder never had had a disease of a vital part other than small-pox; and this he, the said plaintiff, prays may be inquired of by the country.

And the said plaintiff, as to the said plea of the said defendants by them fifthly above pleaded to the said first count of the said declaration, saith that by reason, &c., he ought not, &c., because, he saith, that the
51 said Monroe Snyder did not falsely and fraudulently answer the first part of question No. 14 in the said application contained by replying thereto as follows, to wit, "Small-pox, thirty years ago," because, in truth and in fact, the said Monroe Snyder had not then had any serious illness, local disease, or personal injury other than small-pox; and this he prays may be inquired of by the country.

And the said plaintiff, as to the said plea of the said defendants by them first above pleaded to the second count of the said declaration, saith that by reason, &c., he ought not, &c., because, he saith, that the said Monroe Snyder did not die by his own act and hand as in the said plea is alleged; and this he prays may be inquired of by the country.

And the said plaintiff, as to the plea of the said defendants
52 by them secondly above pleaded to the said second count of the said declaration, saith that by reason, &c., he ought not, &c., because, he saith, that the answer made by the said Monroe Snyder to the said question No. 17 of said application, to wit, "Not for twenty years," was true in substance and in fact, because the said Monroe Snyder had not been attended by any physician for any disease for twenty years before said application; and this he prays may be inquired of by the country.

And the said plaintiff, as to the plea of the said defendants by them thirdly above pleaded to the said second count of the said declaration, saith that by reason, &c., he ought not, &c., because, he saith, that the said defendants, at the time the said application was made and
53 signed by the said Monroe Snyder, to wit, at the district aforesaid, waived and dispensed with any answer by the said Monroe Snyder to the second part of question No. 17 in the said application contained, and accepted the premium paid by the said Monroe Snyder, and issued the said policy in the said second count of the said declaration mentioned, without requiring any answer to said second part of said question, without this, that the said Monroe Snyder falsely omitted to answer the said question, thereby alleging and answering to the said defendants that he then had and had had no usual medical attendant, and that the said Monroe Snyder had had in truth and in fact a usual medical attendant; and this the said plaintiff prays may be inquired of by the country.

And the said plaintiff, as to the said plea of the said defend-
54 ants by them fourthly above pleaded to the said second count of the said declaration, saith that by reason, &c., he ought not, &c., because, he saith, that the said Monroe Snyder did truthfully and with-

out fraud answer to the said question No. 13 in the said application contained, as follows, to wit: "Small-pox, and none of rest," and in truth and in fact the said Monroe Snyder never had had a disease of a vital part other than small-pox; and this he prays may be inquired of by the country.

And the said plaintiff, as to the said plea of the said defendants, by them fifthly above pleaded to the said second count of the said declaration, saith that by reason, &c., he ought not, &c., because, he saith, that the said Monroe Snyder did not falsely and fraudulently answer the first part of question No. 14 in the said application contained, by replying thereto as follows, to wit: "Small-pox," because in truth
55 and in fact the said Monroe Snyder had not then had any serious illness, local disease, or personal injury other than small-pox; and this he prays may be inquired of by the country.

And the said plaintiff, as to the said plea of the said defendants by them lastly above pleaded to the said third and fourth counts of the said declaration, saith that by reason, &c., he ought not, &c., because, he says, that the said defendants were not always ready and willing to return to the said plaintiff the said sums of money so paid as premiums as aforesaid, according to the terms of the said policy of insurance; and this he prays may be inquired of by the country.

EDWARD J. FOX,
H. GREEN,
Attys. for Pltff.

56 And afterwards, on the same day, to wit, the 22nd day of April, A. D. 1874, the defendants, by their attorney, file' rejoinders, which, being read, are as follows, to wit:

SNYDER *vs.* INS. CO. } C. C. U. S. October, 1873. No. 32.

Rejoinders.

And the defendants, as to the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, and 12th replications, in which the plaintiffs pray that the matters pleaded in the pleas numbered respectively 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, and 11th, may be enquired of by the country, do the like.

PORTER,
For Defendants.

57 And afterwards, to wit, on the 22nd day of April, A. D. 1874, a jury, being called, come, to wit:

1. ADAM MATZINGER,
2. WILLIAM T. DONALDSON,
3. HENRY G. HAEDRICH,
4. ISAAC MCCLEUR,
5. JOSEPH W. NUMBERS,
6. ROBERT BURNS,
7. HENRY C. JOHNSON,
8. FREDERICK W. THOMAS, JR.,
9. JOHN S. CROMBERGER,
10. EDWARD E. EYRE,
11. GEORGE J. BURKHARDT,
12. JOSEPH BRELSFORD,

who are respectively sworn and affirmed to try the issues joined, &c.

And afterwards, to wit, on the seventh day of May, A. D. 1874, the

jurors aforesaid, on their oaths and affirmations aforesaid, respectively, do say that in the issues joined they find for the plaintiff, and assess the damages at twenty-one thousand two hundred ($21,200) dollars with costs.

58 And thereupon, forasmuch as the court now here is not as yet advised about giving judgment of and upon the premises, day is therefore given to the said parties to be before the court in four days, to wit, on the eleventh day of May, in the year aforesaid, for hearing judgment of and upon the premises, because the said court here is not yet advised thereupon.

At which day, to wit, the eleventh day of May, A. D. 1874, before the judges of said court, comes the said Lewis W. Snyder, by his attorneys aforesaid; whereupon the premises being seen and fully understood by the court here, and mature deliberation being had thereon, it is considered that the said Lewis W. Snyder do recover from the said The Mutual Life Insurance Company of New York his damages aforesaid found by the said jurors in form aforesaid, to wit, twenty-one thousand two hundred dollars ($21,200); and also adjudged to the said Lewis W. Snyder by the court here, at his request, for his said costs and charges, which said damages in the whole amount to the sum of . And the said plaintiff in mercy, &c.

59 *Citation sur writ of error.*

The United States of America to Lewis W. Snyder, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the eastern district of Pennsylvania, in the third circuit, wherein the Mutual Life-Insurance Company of New York, a corporation created by and established under the laws of the State of New York, is plaintiff in error and you are defendant in error, to show cause, if any there be, why judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness my hand this sixteenth day of May, in the year of our Lord one thousand eight hundred and seventy-four.

W. STRONG, *J.*

We accept service of this writ. May 26, 1874.
EDWARD J. FOX,
HENRY GREEN,
per E. J. F.
Attys. for Lewis W. Snyder, Easton, Penna.

60 *Bond sur writ of error.*

Approved & filed as follows:

Know all men by these presents that we, Frederick S. Winston, residing at No. 18 West Thirty-first street, in the city of New York and State of New York, F. Ratchford Starr, residing at 1726 Spruce street, Philadelphia, and Frederick W. Vanuxem, residing at Chesnut Hill, Montgomery County, Pennsylvania, are held and firmly bound unto Lewis W. Snyder, a citizen of the State of Pennsylvania, in the full and

just sum of forty-four thousand dollars, to be paid to the said Lewis W. Snyder, his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, jointly and severally, by these presents, sealed with our seals and dated this eleventh day of May, in the year of our Lord one thousand eight hundred and seventy-four.

Whereas lately, at a circuit court of the United States in and for the eastern district of Pennsylvania, in the third circuit, in a suit depending in said court between the said Lewis W. Snyder, plaintiff, and The Mutual Life-Insurance Company of New York, defendant, judgment was rendered against the said The Mutual Life-Insurance Company of New York, and the said defendant having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the
61 judgment in the aforesaid suit, and a citation directed to the said Lewis W. Snyder, citing and admonishing to be and appear at a Supreme Court of the United States to be holden at the city of Washington, D. C., the second Monday of October next:

Now, the condition of the above obligation is such that if the said The Mutual Life-Insurance Company of New York shall prosecute their writ of error to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be void; else to remain in full force and virtue.

F. S. WINSTON, *Prest.* [SEAL.]
FRED'K S. WINSTON. [SEAL.]
F. RATCHFORD STARR. [SEAL.]
FREDERICK W. VANUXEM. [SEAL.]

Attest:

JNO. M. STUART, *Sec'y.* { SEAL OF THE MUTUAL LIFE-INS. CO. OF N. Y. }

Sealed & delivered in presence of.—(The words "of October" interlined between 5th & 6th line from foot of first page before signing.

SAMUEL BELL.
W. GRIER HIBLER.

STATE OF NEW YORK,
City & County of New York, ss:

On this thirteenth day of May, eighteen hundred and seventy-four, before me came Frederick S. Winston, to me personally known, who, being by me duly sworn, did depose and say that he resides in the city of New York, and is the president of the Mutual Life-Insurance
62 Company of New York, who are described in and who executed the foregoing instrument; that the seal thereto affixed is the corporate seal of the said company, and was so affixed by their authority.

{ SEAL OF WM. G. DAVIES, NOTARY PUBLIC. } WILLIAM G. DAVIES,
Notary Public.

STATE OF NEW YORK,
City and County of New York, ss:

On this thirteenth day of May, eighteen hundred and seventy-four, before me came Frederick S. Winston, to me personally known to be one of the individuals described in and who executed the foregoing instrument, and acknowledged to me that he executed the same.

{ SEAL OF WM. G. DAVIES, NOTARY PUBLIC. } WILLIAM G. DAVIES,
Notary Public.

(Endorsed:) Bond & sureties approved.

W. STRONG,
Asso. Just. S. C. U. S.

63 And afterwards, to wit, on the second day of September, A. D. 1874, the defendants, by their attorneys, file the following bill of exceptions, to wit:

BILL OF EXCEPTIONS.

Be it remembered that in October sessions, (No. 32,) A. D. 1873, came Lewis W. Snyder into the circuit , of the United States for the eastern district of Pennsylvania, and impleaded the Mutual Life-Insurance Company of New York, in a certain plea of trespass on the case, &c., in which the said plaintiff declared, as follows:

Narr.

In the circuit court of the United States, of October sessions, 1873. No. 32.

EASTERN DISTRICT OF PENNSYLVANIA, *ss:*

The Mutual Life-Insurance Company of New York, a corporation created and established by the laws of the State of New York, was summoned to answer Lewis W. Snyder, a citizen of Pennsylvania, of a plea of trespass on the case, &c.

And thereupon the said plaintiff, by Edward J. Fox and Henry Green, his attorneys, complains for that whereas the said defendant heretofore, to wit, on the eleventh day of July, anno Domini eighteen hun-
64 dred and seventy-two, at New York, to-wit, at the district aforesaid, caused to be made a certain writing or policy of assurance, purporting thereby and containing therein that, in consideration of the sum of five hundred and seventeen dollars and eighty cents then paid by the said plaintiff to the said defendant, the receipt of which was acknowledged by the said defendant in and by the said policy, and of the further payment of a like amount in annual payments on or before the eleventh day of July, in every year during the continuance of the said policy by the said Lewis W. Snyder, the said defendant would and did insure the life of Monroe Snyder, of Bethlehem, in the county of Northampton, and State of Pennsylvania, for the sole use of the said plaintiff, in the sum of ten thousand dollars, for the term of his natural life, upon the terms and conditions in the said policy expressed and contained.

And thereupon, afterwards, to wit, on the day and year aforesaid, at the district aforesaid, in consideration that the said plaintiff, at the special instance and request of the said defendant, had then and
65 there paid to the said defendant the sum of five hundred and seventeen dollars and eighty cents as a premium and reward for the insurance of ten thousand dollars upon the life of the said Monroe Snyder, and had then and there undertaken and faithfully promised the said defendant to perform and fulfill all things in the said writing or policy of assurance contained, either on the part of the said plaintiff or of the said Monroe Snyder, to be performed and fulfilled, the said defendant undertook, and then and there faithfully promised the said plaintiff, that the said defendant would insure the life of the said Monroe Snyder in the amount of ten thousand dollars, upon the following terms and conditions, to wit: That if the said Monroe Snyder should pass or remain beyond the settled limits or the protection of the Government of the United States, (excepting into the settled limits of the British provinces,) or north of the 50th degree of north latitude; or, between the first of

July and the first of November, south of the parallel of 36 degrees thirty minutes of north latitude, (except between the parallels of
66 36° 30′ and 32° of north latitude, east of Tennessee River and the westerly line of the State of Alabama, and not less than one hundred miles west of the Atlantic coast of the United States ;) or should enter upon a voyage upon the high seas ; or should be personally engaged in blasting, mining, submarine operations, or the production of highly inflammable or explosive substances ; or in working or managing a steam-engine in any capacity ; or as a mariner, engineer, fireman, conductor, or laborer, in any capacity, upon service on any sea, sound, inlet, river, lake, or railroad ; or enter any military or naval service whatsoever, (excepting into the militia when not in actual service,) without the consent of the defendant in each or either of the foregoing cases previously given in writing ; or if he should die by his own act or hand, whether sane or insane, or in or in consequence of a duel, or of the violation of the laws of any nation, state, or province ; or if he should aid or abet any insurrection against the United States, or perform any labor or service, civil or military, in aid of such insurrection ; or if any of the statements or declarations made in the application
67 for the aforesaid policy, upon the faith of which the said policy was issued, should be found in any respect untrue, then and in every such case the said policy should be null and void ; and upon the further stipulations that the said defendants did not assume the risk of death from hostile Indians, and that if the said premiums should not be paid on or before the day therein mentioned for the payment thereof, at the office of the said company in the city of New York, (unless otherwise expressly agreed in writing,) or to agents when they produced receipts signed by the president or secretary, then, and in every such case, the said defendant should not be liable for the payment of the sum assured, or any part thereof, and the said policy should cease and determine ; and would perform and fulfill all things in the said writing or policy of assurance contained on the part and behalf of the said defendant to be performed and fulfilled, and did promise and agree to pay the amount of the said insurance, at their office in the city of New
68 York, to the said plaintiff, if living, and if not living, to his executors or administrators, in sixty days after due notice and proof of the death of the said Monroe Snyder, the balance of the year's premium, if any, being first deducted therefrom, and upon the further conideration that in every case, when the said policy should cease and determine or become or be null and void, all payments thereon should be forfeited to the company, except that in case of the death of the insured by his own act and hand the said defendant would return the premiums paid ; and the said defendant then and there, by its vice-president, Richard W. McCurdy, and its assistant secretary, F. Schroeder, subscribed the said writing or policy of assurance.

And the said plaintiff in fact saith that at the time of making the said writing or policy of assurance the said Monroe Snyder was in good health, and that the said plaintiff was interested in the life of the said Monroe Snyder to a large amount, to wit, to the amount of all the moneys by him ever insured or caused to be insured thereon, to wit, at the county aforesaid.

69 And the said plaintiff in fact further saith, that after the making of the said policy of assurance, to wit, on the twenty-first day of February, in the year of our Lord eighteen hundred and seventy-three, the said Monroe Snyder, at the county aforesaid, died and deceased out of his natural life by other ways and means

than by his own act or hand, or in or in consequence of a duel, or of the violation of the laws of any nation, state, or province, or by the act of hostile Indians, and without having *having* violated any of the conditions, stipulations, or provisions in the said policy of insurance contained, of all which said several premises the said defendant afterwards, to wit, on the day and year last aforesaid, at the county aforesaid, had notice, and was then and there requested by the said plaintiff to pay him the said sum of ten thousand dollars so by the said defendant to the said plaintiff assured as aforesaid, and which said sum of ten thousand dollars the said defendant ought then and there to have paid the said
70 plaintiff, according to the form and effect of the promise and undertaking of the said defendant so made as aforesaid.

2D COUNT.—And whereas also the said defendant heretofore, to wit, on the twentieth day of September, anno Domini. eighteen hundred and seventy-two, at New York, to wit, at the county aforesaid, caused to be made a certain writing or policy of assurance, purporting thereby and containing therein that, in consideration of the sum of five hundred and forty-three dollars and ten cents, then paid by the said plaintiff to the said defendant, the receipt of which was acknowledged by the said defendant in and by the said policy, and of the further payment of a like amount in annual payments on or before the twentieth day of September in each year during the continuance of the said policy by the said Lewis W. Snyder, the said defendant would and did insure the life of the said Monroe Snyder, of Bethlehem, in the county of Northampton, and State of Pennsylvania, for the sole use of the said plaintiff, in the sum of ten thousand dollars, for the term of his
71 natural life, upon the terms and conditions in the said policy expressed and contained, and thereupon, afterwards, to wit, on the day and year aforesaid, at the county aforesaid, in consideration that the said plaintiff, at the special instance and request of the said defendant, had then and there paid to the said defendant the said sum of five hundred and forty-three dollars and ten cents as a premium and reward for the insurance of ten thousand dollars upon the life of the said Monroe Snyder, and had then and there undertaken and faithfully promised the said defendant to perform and fulfill all things in the said writing or policy of insurance contained, either on the part of the said plaintiff or of the said Monroe Snyder, to be performed and fulfilled, the said defendant undertook and then and there faithfully promised the said plaintiff that the said defendant would insure the life of the said Monroe Snyder in the sum of ten thousand dollars, upon the following terms and conditions, to wit:

That if the said Monroe Snyder should pass or remain beyond the settled limits or the protection of the Government of the
72 United States, (excepting into the settled limits of the British Provinces;) or north of the 50th degree of north latitude; or, between the 1st of July and the 1st of November, south of the parallel of 36 degrees thirty minutes of north latitude, (except between the parallel' of 36° 30′ and 32° of north latitude, east of the Tennessee River and the westerly line of the State of Alabama, and not less than one hundred miles west of the Atlantic coast of the United States;) or should enter upon a voyage upon the high seas; or should be personally engaged in blasting, mining, submarine operations, or the production of highly inflammable or explosive substances; or in working or managing a steam-engine in any capacity; or as a mariner, engineer, fireman, conductor, or laborer in any capacity, upon service on any sea, sound, inlet, river, lake, or railroad; or enter any military or naval service whatsoever, (excepting

into the militia when not in actual service,) without the consent of the defendant, in each or either of the foregoing cases, previously
73 given in writing; or if he should die by his own act or hand, whether sane or insane, or in or in consequence of a duel, or of the violation of the laws of any nation, state, or province; or if he should aid or abet any insurrection against the United States, or perform any labor or service, civil or military, in aid of such insurrections; or if any of the statements or declarations made in the application for the aforesaid policy, upon the faith of which the said policy was issued, should be found in any respect untrue, then and in every such case the said policy should be null and void, and upon the further stipulations that the said defendant did not assume the risk of death from hostile Indians, and that if the said premiums should not be paid on or before the days therein mentioned for the payment thereof, at the office of the said company, in the city of New York, (unless otherwise expressly agreed in writing,) or to agents when they produced receipts signed by the president or secretary, then, and in every such case, the said defendant should not be liable for the payment of the sum assured or any part thereof, and the said policy should cease and determine; and would perform and fulfill all things in the said writing or policy of assurance
74 contained on the part and behalf of the said defendant to be performed and fulfilled, and did promise and agree to pay the amount of the said insurance, at their office in the city of New York, to the said plaintiff, if living, and if not living, to his executors or administrators, in sixty days after due notice and proof of the death of the said Monroe Snyder, the balance of the year's premium, if any, being first deducted therefrom; and upon the further condition that in every case when the said policy should cease and determine, or become or be null and void, all payments therein should be forfeited to the company, except that in case of the death of the insured, by his own act or hand, the said defendant would return the premiums paid; and the said defendant then and there, by its president, F. S. Winston, and its secretary, John M. Stuart, subscribed the said writing or policy of assurance.

And the said plaintiff in fact saith that at the time of making the said writing or policy of assurance, the said Monroe Snyder was in good health, and that the said plaintiff was interested in the life of the said Monroe Snyder to a large amount, to wit, to the amount of all the moneys by him ever insured or caused to be insured thereon, to
75 wit, at the county aforesaid. And the said plaintiff in fact further saith, that after the making of the said policy of assurance, to wit, on the twenty-first day of February, in the year of our Lord eighteen hundred and seventy-three, the said Monroe Snyder, at the county aforesaid, died and deceased out of his natural life by other ways and means than by his own act or hand, or in or in consequence of a duel, or of the violation of any laws of any nation, state, or province, or by the act of hostile Indians, and without having violated any of the conditions, stipulations or provisions in the said policy of insurance contained, all of which said several premises the said defendant afterwards, to wit, on the day and year last aforesaid, at the county aforesaid, had notice, and was then and there requested by the said plaintiff to pay him the said last-mentioned sum of ten thousand dollars, so by the said defendant to the said plaintiff assured as aforesaid, and which said sum of ten thousand dollars the said defendant ought then and there to have paid to the said plaintiff according to the form and effect of the promise and undertaking of the said defendant so made as aforesaid.

76 And whereas, also, the said defendant, on the first day of May,

say, that in the application for insurance, which the defendants here bring into court, bearing date the ninth day of July, 1872, and upon the faith and in consideration of which said policy was issued, as in said declaration averred, and which application formed a part of said policy, in answer to question No. 13 thereof, viz, "Have you ever had any of the following diseases: Spitting of blood, liver complaint, consumption, yellow fever, paralysis, palpitation, bronchitis, small-pox, rupture, apoplexy, insanity, scrofula, fistula, asthma, dropsy, fits, gout, palsy, bilious, renal or hepatic colic, rheumatism, and of what na-
83 ture; disease of the heart, disease of the urinary organs, or of any other vital part? If so, state which, how recently, and the full particulars;" the said Monroe Snyder, the insured, falsely and fraudulently answered, "Small-pox; none of rest," thereby asserting and answering to the said defendants that he never had had any of the diseases named in the said question, or any disease of any other vital part other than small-pox, whereby these defendants were deceived; whereas in truth and in fact the said Monroe Snyder, the insured, then had had a disease of a vital part other than small-pox; and this the said defendants are ready to verify. Wherefore, &c.

(5.) And for a further plea in this behalf to the first count of the said declaration, by like leave of the court, &c., the said defendants say that the said plaintiff ought not, &c., because, they say, that the said Mon-
84 roe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because, they say, that in the application for insurance, which the defendants here bring into court, bearing date the ninth day of July, 1872, and upon the faith and in consideration of which said policy was issued, as in said declaration averred, and which application formed a part of said policy, in answer to the first part of question No. 14 A thereof, viz, "Have you ever had any serious illness, local disease, or personal injury? if so, of what nature?" the said Monroe Snyder falsely and fraudulently answered, "Small-pox thirty years ago," thereby asserting and answering to the said defendants that he then had had no serious illness, local disease, or personal injury other than small-pox, whereby these defendants were deceived; whereas in truth and in fact the said Monroe Snyder, the insured, had then had a local disease or personal injury other than small-pox; and this they are ready to verify. Wherefore, &c.

85 (6.) And for a plea in this behalf as to the said second count of the declaration, the said defendants say that the said plaintiff ought not, &c., because, they say, that although true it is that the said agreement in the said count mentioned was entered into between the plaintiff and the defendants in manner and form as therein mentioned, yet the defendants say that after the said agreement was entered into between the said plaintiff and the defendants, the said Monroe Snyder, the insured, did die by his own act and hand; and this the defendants are ready to verify. Wherefore, &c.

And the said defendants aver that they are ready and willing to return to the said plaintiff the premiums paid by him or on his behalf at the time of and since the making of the policy of insurance declared upon, according to the terms of said policy, to wit, the sum of five
86 hundred and forty-three dollars and ten cents, and the said defendants now bring here into court the said sum of five hundred and forty-three dollars and ten cents, and tender the same to the said plaintiff upon cancellation and return to the defendants of the policy declared upon.

(7.) And for a further plea in this behalf to the said second count of

the declaration, by leave of the court, &c., the said defendants say that the plaintiff ought not, &c., because, they say, that the said Monroe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because they say that in the application for insurance, which the defendants here bring into court, bearing date the eighteenth day of September, 1872, and upon the faith and in consideration of which the said policy was issued as in the declaration averred, and which application formed a part of said policy, in answer to question No. 17 of said application, viz, "How long
87 since you were attended by a physician? For what diseases? Give name and residence of such physician?" the said Monroe Snyder, the insured, falsely answered, "Not for twenty years," thereby asserting and answering to the defendants that he had not been attended by a physician for twenty years prior to September 18th, 1872; whereas in truth and in fact the said Monroe Snyder, the insured, had been attended by a physician within less than ten years prior to September 18th, 1872; and this the defendants are ready to verify. Wherefore, &c.

(8.) And for a further plea in this behalf to the said second count of the declaration, by like leave of the court, &c., the said defendants say that the plaintiff ought not, &c., because, they say, that the said Monroe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because, they say, that
88 in the application for insurance, which the defendants here bring into court, bearing date the eighteenth day of September, 1872, and upon the faith and in consideration of which the said policy was issued, as in said declaration averred, and which application formed a part of said policy, in answer to the second part of question No. 17 thereof, viz, "Name and residence of your usual medical attendant?" the said Monroe Snyder falsely omitted to answer the said question, thereby alleging and answering to the defendants that he then had and had had "no usual medical attendant," whereby these defendants were deceived; whereas, in truth and in fact, the said Monroe Snyder, the insured, had had a usual medical attendant; and this the said defendants are ready to verify. Wherefore, &c.

(9.) And for a further plea in this behalf to the second count of the declaration, by like leave of the court, &c., the said defendants say
89 that the said plaintiff ought not, &c., because, they say, that the said Monroe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because, they say, that in the application for insurance, which the defendants here bring into court, bearing date the eighteenth day of September, 1872, and upon the faith of which said policy was issued, as in said declaration averred, and which application formed a part of said policy, in answer to question No. 13 thereof, viz, "Have you ever had any of the following diseases: Spitting of blood, liver complaint, consumption, yellow fever, paralysis, palpitation, bronchitis, small-pox, rupture, apoplexy, insanity, scrofula, fistula, asthma, dropsy, fits, gout, palsy, bilious, renal or hepatic colic, rheumatism, and of what nature; disease of the heart, disease of the urinary organs, or of any other vital part? If so, state which, how recently, and the full particulars," the said
00 Monroe Snyder, the insured, falsely and fraudulently answered, "Small-pox; none of rest," thereby asserting and answering to the said defendants that he never had had any of the diseases named in the said question, or any disease of any other vital part other than small-pox, whereby these defendants were deceived: whereas, in truth and in fact, the said Monroe Snyder, the insured, had then had a disease

of a vital part other than small-pox; and this the said defendants are ready to verify. Wherefore, &c.

(10.) And for a further plea in this behalf to the second count of said declaration, by like leave of the court, &c., the said defendants say that the said plaintiff ought not, &c., because, they say, that the said Monroe Snyder, the insured, did violate a condition, stipulation, and provision in said policy of insurance contained, because, they say, that in the application for insurance which the defendants here bring
91 into court, bearing date the eighteenth day of September, 1872, and upon the faith and in consideration of which said policy was issued, in said declaration averred, and which application formed a part of said policy, in answer to the first part of question No. 14 A thereof, viz, "Have you ever had any serious illness, local disease, or personal injury? If so, of what nature?" the said Monroe Snyder, the insured, falsely and fraudulently answered, "Small-pox," thereby asserting and answering to the said defendants that he then had had no serious illness, local disease, or personal injury other than small-pox, whereby these defendants were deceived; whereas in truth and in fact the said Monroe Snyder, the insured, had then had a local disease and personal injury other than small-pox; and this they are ready to verify. Wherefore, &c.

92 (11.) And for a plea in this behalf as to the said third and fourth counts of the declaration, the said defendants say that the said plaintiff ought not, &c., because, they say, that the said sums of money mentioned in the said counts of the declaration and claimed to be due and owing by and from the said defendants to the said plaintiff are moneys paid by or on behalf of the plaintiff for premiums of insurance under and upon certain policies issued by the said defendants to the said plaintiff upon the life of Monroe Snyder mentioned in the first and second counts of the declaration, to wit, the sum of five hundred and seventeen dollars and eighty cents upon a certain policy of insurance of these defendants, dated the eleventh day of July, 1872, and the sum of five hundred and forty-three dollars and ten cents upon a certain policy of insurance of these defendants, dated the twentieth day of September, 1872, and not other moneys, and the defendants aver that they are and always have been ready and willing to return
93 to the said plaintiff the said sums of money so paid as premiums as aforesaid, according to the terms of the said policies of insurance, and the said defendants now bring here into court the said sums of money so as aforesaid paid as premiums, and tender the same to the said plaintiff upon the cancellation and return to the said defendants of the said aforementioned policies of insurance; and this they are ready to verify. Wherefore, &c.

(Endorsed as follows:) 32. October, 1873. Lewis W. Snyder vs. Mutual Life-Insurance Company of N. Y. C. C. U. S. Pleas. Filed April 22, 1874.

94 And thereupon issue was joined between them.

And afterwards, to wit, at a session of said court, held at the city aforesaid, before the honorable John Cadwalader, one of the justices of the said court, on Wednesday, the twenty-second day of April, A. D. 1874, the aforesaid issue between the said parties came to be tried

by a jury of the said district for that purpose duly impannelled, as follows:

1. ADAM MATZINGER.
2. WILLIAM T. DONALDSON.
3. HENRY G. HAEDRICH.
4. ISAAC MCCLEUR.
5. JOSEPH W. NUMBERS.
6. ROBERT BURNS.
7. HENRY C. JOHNSON.
8. FREDERICK W. THOMAS, Jr.
9. JOHN S. CROMBERGER.
10. EDWARD E. EYRE.
11. GEORGE J. BURKHARDT.
12. JOSEPH BRELSFORD.

At which day came as well the said plaintiff as the said defendant, by their respective attorneys; and the jurors of the jury aforesaid impannelled to try the said issues being also called, came, and were then and there in due manner chosen, sworn, or affirmed, to try the said issue; and upon the trial the counsel of the said defendant gave in evidence the following application, and the following policies of insurance, to wit:

[Copy.]

95 The particular attention of applicants is called to the installment feature, which is fully explained in the company's documents. [Page 1.

Do not write in this space or above it.

Application for insurance to the Mutual Life-Insurance Company of New York, 144 & 146 Broadway, corner of Liberty street, New York City.

Particulars required from persons proposing to effect assurances on lives in this company, and which it is hereby mutually agreed do form a part of the contract with the Company.

1. Name of the person whose life is proposed to be assured. (Write the name in full.)	Occupation.	Residence.	Place of business.
Monroe Snyder.	Retired merchant.	Place .....Bethlehem. County .....Northampton. State .....Pennsylvania.	Bethlehem, Pa.

☞ In giving the occupation of the person, it is not sufficient to state (for example) that he is a merchant or mechanic, but the particular branch of business, or the actual trade, must be specified. ☜

	[Yes or no.]	Give the number of each policy and the amount assured thereby separately.	
2. A. Are you now insured in this company? B. If so, what are the numbers and amounts of the policies? C. If you are not now insured, but have been heretofore, state the number of the policy.	A. No.	B.	C.

3. Sum to be assured? $10,000.	Dollars—Ten thousand.	3. A. Do you wish the policy made payable in one sum or in installments?
4. What kind of a policy do you desire? (A policy, premiums payable until death? or, paid up in 5 or 10 years? or endowment, payable until age specified? or, paid up in 10 yrs?	Life. See rates of premium on pages 2 and 4.	One sum.
5. Do you agree to pay the premiums annually, semi-annually, or quarterly? Annually is preferable, if it can be done.	Annually.	

6. Give the date and place of your birth.	Year.	Month.	Day.	State or country.	3. B. If in installments, how many?
	1820.	Jany.	31.	Pennsylvania.	

7. A. What will be your age next birth-day? B. Are you married or single?	A. 53.	B. Married.

8. A. Have you ever resided out of the United States? B. If so, where, and for what period?	A. No.	B.	3. C. Do you wish such installments to be annual, semi-annual, or quarterly?
9. A. If you have ever resided south or west of the southerly line of Virginia and Kentucky, have you been acclimated? B. If so, how?	A. No.	B.	

	Alive or dead?	If alive, at what age?	State of health?	Ages at death?	Causes of death?
10. A. Is your father alive or dead?	A. Dead.	A.	A.	A. 77.	A. Dropsy on heart.
B. Is your mother alive or dead?	B. Dead.	B.	B.	B. 65.	B. Breast fever.

	Total number?	How many are living?	What are their ages?	State of health of each?	How many are dead?	Ages at death?	Causes of death?
11. A. How many brothers have you had?	A. 1.	A.	A	A.	A. 1.	A. 45.	A. Cholera.
B. How many sisters have you had?	B. 4.	B. 3.	7. B. 54. 49.	Good. B. Good. Good.	B. 1.	B. 42.	B. Typhoid fever.

12. A. Has your family been subject to any hereditary disease?	A. No.	
B. Have your ancestors generally reached old age?	B. Yes.	

13. Have you ever had any of the following diseases?	If so, state which, how recently, and the full particulars.
Spitting of blood, liver complaint, consumption, yellow fever, paralysis, palpitation, bronchitis, small-pox, rupture, apoplexy, insanity, scrofula, pneumonia, fistula, asthma, dropsy, fits, gout, palsy, bilious, renal, or hepatic colic, rheumatism, and of what nature; disease of the heart, disease of the urinary organs, or of any other vital part.	Small-pox. None of rest.

14. A. Have you ever had any serious illness, local disease, or personal injury? If so, of what nature?	A. Small-pox 30 years ago.
B. Have you ever been vaccinated?	B. Yes.

15. A. Are the functions of your brain, nervous and muscular systems, heart, lungs, abdominal and urinary organs in a healthy state?	A. Yes.
B. And are you, to the best of your knowledge and belief, free from any disorder, infirmity, or weakness tending to impair your constitution and shorten your life?	B. Yes.

16. A. Are your habits of life correct and temperate?	A. Yes.
B. Have they always been so?	B. Yes.

17. How long since you were attended by a physician? For what diseases? Give name and residence of such physician.	None since small-pox, 30 years ago.	Name and residence of your usual medical attendant?	☞ The blank No. 4 on page 3 must be filled up and signed by him. Has known me ..... years.
		Name and residence of an intimate friend?	Saml. Riegel. Has known me 4 years. ☞ The blank No. 3 on page 2 must be filled up and signed by him.

18. For whose benefit is the assurance to be effected? (Write all names in full.)	Relationship to life to be assured.	Residence.	Occupation.
Lewis W. Snyder.	Son.	Place .....Bethlehem. County .....Northampton. State.....Pennsylvania.	Druggist.

19. It is hereby affirmed and declared by Lewis W. Snyder, the applicant above named, and also by the person whose life is proposed for assurance, that the answers to all of the above questions, and to the questions propounded to the "friend" and physician of the party, on pages 2 and 3, are true and correct, and that no intentional omission, concealment, or mental reservation has been made of any material facts or circumstances relating to the past or present health, habits, or condition, or the family history of the above-named Monroe Snyder.

It is also declared that the above-named applicant has an interest in the life of the said person whose life is proposed for insurance to the full extent of the amount of insurance above applied for.

And it is hereby expressly stipulated and agreed that the above application and this declaration shall form the basis of the contract between the above-named persons and the said The Mutual Life-Insurance Company of New York, and that if any misrepresentations or fraudulent and untrue answers have been made; or if any facts which should have been stated to the company have been suppressed therein; or if any violation of the covenants, conditions, or restrictions of the policy (should one be issued) shall occur; or any omission or neglect to pay any of the premiums on or before the days on which they shall fall due shall take place; that then, in either event, the said policy shall become and be null and void, and all moneys which shall have been paid, and also all dividends which may have accrued thereon, shall be forfeited to the said company for its sole use and benefit.

And the said person whose life is proposed for insurance further declares that he is not now afflicted with any disease or disorder; that he does not now, and that he will not, practice any pernicious habit that obviously tends to the shortening of life; and that he will not take his own life under any circumstances or condition of mind; also, that the medical referee and the friend above named are fully competent and empowered to give information as to his past and present state of health, and other matters contained in this application; which representations are true.

Dated at Bethlehem this 9 day of July, 1872.

Signed in the presence of— WM. L. MORE, *Witness.*

{ Signatures of the applicants or the persons for whose benefit the assurance is applied for. } LEWIS W. SNYDER, By MONROE SNYDER.

{ Signature of the person whose life is proposed for assurance. } MONROE SNYDER.

Blank No. 2.]

INSTRUCTIONS AS TO SIGNATURES.

A husband may sign for his wife thus: "Mary White, by John White," if it be inconvenient to procure her signature.

When a creditor assures the life of a debtor, both must sign.

When assurance is desired for the benefit of minor children, it should be signed e. g.: "John White as guardian (or trustee) for Anna B., Lucy M., my children," (or "children of ——.")

(Printed and written on left margin of page 1 of application:) Approved by Vannxem, Bates and Lambert, general agents.

The family record of the party should always (when possible) be consulted before stating the age, to avoid error. When a person wishes to be assured for his own benefit, question 1 only is to be answered; but if for the benefit of any other person or persons, question 18 must also be answered.

(Printed on right margin of page 1 of application:) NOTICE.—This company accepts cash only in payment of premiums. No policy is binding until the premium has been paid. Statements will not be recognized by the company unless the same are made in writing upon this application.

(Printed on bottom margin of page 1 of application:) The full names of all the parties must be written plainly and distinctly, especially the Christian names, which should not be abbreviated, and every question must be fully answered.

ANNUAL PREMIUMS FOR AN INSURANCE OF $1,000.

1. Life-policies, payable at death only.				2. Endowment assurance policies, payable as indicated, or at death, if prior.							3. Annual premiums for 10 years to secure an endowment assurance of $1,000, payable as follows, with full participation in the surplus of the company.						
Age.	Annual payments for life.	Annual payments for 10 years.	Annual payments for 5 years.	Age.	In 5 years.	In 15 years.	In 20 years.	In 25 years.	In 30 years.	In 35 years.	Age.	In 10 years.	In 15 years.	In 20 years.	In 25 years.	In 30 years.	In 35 years.
25	19 89	42 56	73 87	25	219 95	66 02	47 68	37 17	30 61	26 33	25	103 91	87 92	75 39	65 64	58 14	52 50
26	20 40	43 37	75 25	26	220 05	66 15	47 82	37 34	30 80	26 57	26	104 03	88 05	75 54	65 83	58 39	52 82
27	20 93	44 22	76 69	27	220 17	66 29	47 98	37 52	31 02	26 83	27	104 16	88 19	75 71	66 04	58 65	53 17
28	21 48	45 10	78 18	28	220 29	66 44	48 15	37 72	31 25	27 11	28	104 29	88 34	75 89	66 26	58 94	53 54
29	22 07	46 02	79 74	29	220 41	66 60	48 33	37 92	31 50	27 42	29	104 43	88 50	76 08	66 50	59 25	53 95
30	22 70	46 97	81 36	30	220 54	66 77	48 53	38 16	31 78	27 76	30	104 58	88 67	76 29	66 76	59 60	54 40
31	23 35	47 98	83 05	31	220 70	66 96	48 74	38 41	32 09	28 13	31	104 75	88 86	76 52	67 06	59 98	54 90
32	24 05	49 02	84 80	32	220 85	67 16	48 97	38 69	32 43	28 54	32	104 92	89 06	76 76	67 37	60 39	55 44
33	24 78	50 10	86 62	33	221 01	67 36	49 22	38 98	32 79	28 98	33	105 11	89 27	77 02	67 70	60 84	56 03
34	25 56	51 22	88 52	34	221 12	67 60	49 49	39 31	33 19	29 46	34	105 31	89 50	77 30	68 08	61 33	56 67
35	26 38	52 40	90 49	35	221 37	67 85	49 79	39 68	33 63	30 00	35	105 53	89 75	77 62	68 49	61 87	57 37
36	27 25	53 63	92 54	36	221 57	68 12	50 11	40 07	34 11	30 58	36	105 75	90 02	77 95	68 93	62 46	58 13
37	28 17	54 91	94 67	37	221 78	68 41	50 47	40 50	34 64	31 22	37	106 00	90 31	78 33	69 42	63 10	58 96
38	29 15	56 24	96 89	38	222 01	68 73	50 86	40 98	35 23	31 93	38	106 28	90 63	78 73	69 96	63 81	59 86
39	30 19	57 63	99 19	39	222 26	69 09	51 30	41 52	35 88	32 70	39	106 58	90 98	79 18	70 56	64 59	60 84
40	31 30	59 09	101 59	40	222 53	69 49	51 78	42 10	36 59	33 55	40	106 90	91 37	79 68	71 21	65 44	61 90
41	32 47	60 60	104 08	41	222 83	69 92	52 31	42 75	37 38	.....	41	107 26	91 79	80 23	71 93	66 37	.....
42	33 72	62 19	106 66	42	223 15	70 40	52 89	43 47	38 24	.....	42	107 65	92 26	80 83	72 72	67 39	.....
43	35 05	63 84	109 34	43	223 49	70 92	53 54	44 26	39 19	.....	43	108 08	92 78	81 49	73 58	68 50	.....
44	36 46	65 57	112 13	44	223 87	71 50	54 25	45 12	40 23	.....	44	108 55	93 34	82 22	74 54	69 70	.....
45	37 97	67 37	115 02	45	224 28	72 14	55 04	46 08	41 37	.....	45	109 07	93 97	83 03	75 58	71 01	.....
46	39 58	69 26	118 02	46	224 74	72 86	55 91	47 15	.....	.....	46	109 65	94 67	83 93	76 74	.....	.....
47	41 30	71 25	121 15	47	225 25	73 66	56 89	48 32	.....	.....	47	110 30	95 46	84 92	78 01	.....	.....

48	43 13	73 32	124 38	48	225 81	74 54	57 96	49 61			48	111 01	96 31	86 02	79 39		
49	45 09	75 49	127 74	49	226 43	75 51	59 15	51 04			49	111 81	97 27	87 22	80 90		
50	47 18	77 77	131 21	50	227 12	76 59	60 45	52 60			50	112 68	98 32	88 54	82 54		
51	49 40	80 14	134 80	51	227 88	77 77	61 90				51	113 64	99 48	89 99			
52	51 78	82 63	138 51	52	228 71	79 07	63 48				52	114 70	100 74	91 58			
53	54 31	85 22	142 34	53	229 61	80 51	65 22				53	115 86	102 14	93 30			
54	57 02	87 94	146 30	54	230 61	82 09	67 14				54	117 14	103 67	95 19			
55	59 91	90 79	150 38	55	231 70	83 82	69 24				55	118 54	105 34	97 24			
56	63 00	93 78	154 60	56	232 89	85 73					56	120 09	107 18				
57	66 29	96 91	158 94	57	234 19	87 84					57	121 78	109 20				
58	69 82	100 21	163 43	58	235 62	90 15					58	123 64	111 41				
59	73 60	103 68	168 07	59	237 19	92 70					59	125 70	113 83				
60	77 63	107 35	172 87	60	238 92	95 50					60	127 96	116 49				
61	81 96	111 23	177 83	61	240 81						61	130 45					
62	86 58	115 32	182 95	62	242 87						62	133 19					
63	91 54	119 66	188 26	63	245 14						63	136 20					
64	96 86	124 28	193 77	64	247 64						64	139 52					
65	102 55	129 18	199 48	65	250 37						65	143 16					

SEMI-ANNUAL PREMIUMS FOR AN INSURANCE OF $1,000.

1. Life-policies, payable at death only.			
Age.	Semi-annual payments for life.	Semi-annual payments for 10 years.	Semi-annual payments for 5 years.
25	10 35	22 13	38 41
26	10 61	22 54	39 13
27	10 89	23 00	39 88
28	11 17	23 46	40 65
29	11 48	23 93	41 46
30	11 80	24 43	42 30
31	12 14	24 95	43 19
32	12 50	25 49	44 10
33	12 89	26 05	45 04
34	13 29	26 64	46 03
35	13 72	27 25	47 05
36	14 17	27 89	48 12
37	14 65	28 56	49 23
38	15 16	29 25	50 38
39	15 70	29 97	51 58
40	16 28	30 73	52 83
41	16 89	31 51	54 12
42	17 54	32 34	55 47
43	18 23	33 20	56 85
44	18 96	34 10	58 31
45	19 75	35 04	59 81
46	20 58	36 02	61 37
47	21 48	37 05	63 00
48	22 43	38 13	64 68
49	23 45	39 26	66 43

2. Endowment assurance policies, payable as indicated, or at death, if prior.						
Age.	In 5 years.	In 15 years.	In 20 years.	In 25 years.	In 30 years.	In 35 years.
25	114 37	34 33	24 80	19 33	15 91	13 69
26	114 43	34 40	24 87	19 42	16 02	13 81
27	114 49	34 47	24 95	19 51	16 13	13 95
28	114 55	34 55	25 04	19 62	16 25	14 10
29	114 61	34 63	25 13	19 73	16 38	14 26
30	114 68	34 72	25 24	19 85	16 53	14 44
31	114 76	34 82	25 35	19 98	16 68	14 63
32	114 84	34 93	25 47	20 12	16 86	14 84
33	114 92	35 03	25 60	20 27	17 05	15 07
34	115 01	35 15	25 74	20 44	17 26	15 32
35	115 11	35 28	25 89	20 63	17 49	15 60
36	115 22	35 42	26 06	20 84	17 74	15 90
37	115 33	35 57	26 24	21 06	18 02	16 24
38	115 45	35 74	26 45	21 31	18 32	16 60
39	115 57	35 92	26 68	21 59	18 66	17 00
40	115 71	36 13	26 93	21 89	19 03	17 45
41	115 87	36 36	27 20	22 23	19 44	.....
42	116 04	36 61	27 50	22 60	19 89	.....
43	116 22	36 88	27 84	23 02	20 38	.....
44	116 41	37 18	28 21	23 45	20 92	.....
45	116 62	37 52	28 62	23 96	21 51	.....
46	116 87	37 89	29 08	24 52	.....	.....
47	117 13	38 30	29 58	25 13	.....	.....
48	117 42	38 76	30 14	25 80	.....	.....
49	117 75	39 27	30 76	26 54	.....	.....

3. Semi-annual premiums for 10 years, to secure an endowment assurance of $1,000, payable as follows, with full participation in the surplus of the company.						
Age.	In 10 years.	In 15 years.	In 20 years.	In 25 years.	In 30 years.	In 35 years.
25	54 04	45 72	39 20	34 13	30 24	27 30
26	54 10	45 79	39 28	34 23	30 37	27 47
27	54 17	45 86	39 37	34 34	30 50	27 65
28	54 23	45 94	39 46	34 46	30 65	27 84
29	54 30	46 02	39 56	34 58	30 81	28 06
30	54 38	46 11	39 67	34 72	30 99	28 29
31	54 47	46 20	39 79	34 87	31 19	28 55
32	54 56	46 31	39 92	35 03	31 40	28 83
33	54 66	46 42	40 05	35 20	31 64	29 14
34	54 76	46 54	40 20	35 40	31 89	29 47
35	54 87	46 67	40 36	35 62	32 17	29 83
36	54 99	46 81	40 54	35 8[illegible]	32 48	30 23
37	55 12	46 96	40 73	36 10	32 81	30 66
38	55 27	47 13	40 94	36 38	33 18	31 13
39	55 42	47 31	41 18	36 69	33 59	31 64
40	55 59	47 51	41 44	37 03	34 03	32 19
41	55 78	47 73	41 72	37 40	34 52	.....
42	55 98	47 98	42 03	37 82	35 05	.....
43	56 20	48 25	42 38	38 26	35 62	.....
44	56 45	48 54	42 76	38 76	36 25	.....
45	56 72	48 87	43 18	39 30	36 93	.....
46	57 02	49 23	43 65	39 90	.....	.....
47	57 36	49 64	44 16	40 57	.....	.....
48	57 73	50 08	44 73	41 29	.....	.....
49	58 14	50 58	45 36	42 07	.....	.....

50	24 54	40 44	68 23	50	118 10	39 83	31 44	27 35			50	58 60	51 13	46 04	42 96		
51	25 69	41 68	70 10	51	118 50	40 44	32 19				51	59 10	51 73	46 80			
52	26 93	42 96	72 02	52	118 94	41 14	33 01				52	59 65	52 39	47 62			
53	28 24	44 32	74 01	53	119 40	41 87	33 92				53	60 25	53 12	48 52			
54	29 65	45 73	76 07	54	119 92	42 69	34 92				54	60 91	53 91	49 50			
55	31 16	47 21	78 20	55	120 48	43 59	36 00				55	61 64	54 78	50 57			
56	32 76	48 77	80 39	56	121 10	44 58					56	62 45	55 74				
57	34 47	50 40	82 65	57	121 78	45 68					57	63 33	56 79				
58	36 30	52 11	84 98	58	122 52	46 88					58	64 30	57 94				
59	38 27	53 91	87 40	59	123 34	48 20					59	65 37	59 19				
60	40 37	55 82	89 89	60	124 24	49 66					60	66 54	60 58				
61	42 62	57 84	92 47	61	125 22						61	67 84					
62	45 02	59 97	95 14	62	126 29						62	69 26					
63	47 60	62 23	97 90	63	127 48						63	70 83					
64	50 37	64 63	100 76	64	128 78						64	72 55					
65	53 33	67 19	103 73	65	130 20						65	74 45					

N. B.—For ages younger than 25 years, the rates of premium on all the above tables are the same as that at age 25 years.

ALTERATION OF POLICIES.—Changes in the manner of paying premiums (as from yearly to half-yearly or quarterly, or the reverse) can only be made at the end of a year, dating from the commencement of the policy; and when such a change is desired by a policy-holder, the policy must be forwarded to the office of the company for the proper and requisite indorsement.

A change of interest in a policy can only be made on the written request of the legal owner of the policy, and with the consent of the company. The dates of payment cannot be changed after a policy has been issued, and the amount assured can only be increased (if desired) by a new policy. The fiscal (or business) year of the company closes on the 31st of December. A policy issued in any year must be dated within that year. It cannot be dated prior to the commencement, or subsequent to the close, of the fiscal year of the company.

ASSIGNMENTS.—A wife cannot legally assign a policy issued under the married women's act for the benefit of herself and children.

When a policy is issued to a person on his own life, and afterwards assigned by him, written notice of such assignment must be given to the company for registration on its books. All assignments to be valid require a revenue-stamp equal in value to that on the policy.

EXTRA RATES.—Permits are required for travel or residence beyond the limits assigned in the policy, and for hazardous occupations, for which application must be made to the principal office. Extra rates in such cases are always charged as a percentage on the amount assured, and not on the amount of premium. An extra rate of ½ of 1 per cent. is charged on the lives of females under the age of 48.

Receipts for premiums, to be valid, must be issued from the office and be signed by the president, vice-president, secretary, or actuary.

Blank No. 3.] THE MUTUAL LIFE-INSURANCE COMPANY OF NEW YORK.

Questions, each of which is to be answered by the friend of the party applying for assurance.

1. How long have you known M Monroe Snyder?	Four years.
2. A. Are his general habits of life temperate? B. Have they always been so?	A. Yes. B. Yes.
3. Is he accustomed to much exercise, or is he sedentary?	Active.
4. Have his parents, brothers, or sisters, to your knowledge, been afflicted with mental derangement, pulmonary complaints, or any constitutional or hereditary predisposition to disease that tends to shorten life?	No.
5. Has he been afflicted with any serious disease?	No.
6. Has he been afflicted with any mental derangement?	No.
7. Do you esteem him a healthy man, and free from any circumstance tending to shorten life?	Yes.
8. Do you believe him to be now in good sound health?	Yes.
9. A. If residing south of the southerly line of Virginia and Kentucky, has he been acclimated? B. If so, how?	A. B.
10. Is his constitution healthy, and are his habits and circumstances such as to render his life safely assurable?	Yes.

Dated at Bethlehem this 9 day of July, 1872.

(Signed) SAML. RIEGEL.

97 Blank No. 4.] [Page 3.

THE MUTUAL LIFE-INSURANCE COMPANY OF NEW YORK.

Questions, each of which is to be answered by the physician of the person applying for assurance.

The physician is expected to give any additional information upon the application which he may possess, even though it be not embraced in the answers to the queries annexed.

1. How long have you known M ..... ?

2. A. Have you been in the habit of seeing him frequently, and giving him medical attendance, and for what diseases? A.
   B. How recently have you attended him? B.

3. Is he now in good health?

4. A. Is he sober and temperate? A.
   B. Has he always been so? B.

5. A. Has his family, or has he himself, been afflicted with pulmonary complaints, scrofula, insanity, or any constitutional or hereditary disease? A.
   B. Have his family, or has he, any such predisposition? B.

6. Has he, at any time, been afflicted with insanity, gout, rheumatism, dropsy, palsy, apoplexy, disease of the heart, aneurism, rupture, fistula, spitting of blood, affection of the lungs or other viscera, or with any organic disease?

7. A. Is his pulse soft and regular? A.
   B. What is its rate? B.
   C. Does it, to your knowledge, ever intermit or become irregular? C.

8. A. Are the functions of his brain, nervous and muscular systems, his lungs, his heart, his abdominal and urinary organs, in a healthy condition? A.
   B. Has he ever had disease of these organs? B.
   C. Has he had any serious injury or illness; if so, what effect has it had on his constitution? C.

9. Is his constitution healthy, and are his habits and circumstances such as to render him safely assurable?

Dated at ..... this .....day of ..... 187 .

Signed, ...

ADDITIONAL REMARKS.

Blank No. 5.

THE MUTUAL LIFE-INSURANCE COMPANY OF NEW YORK.

Questions, each of which is to be answered by the medical examiner of the company, and which the applicant presents as part of his application.

N. B.—It is understood that the medical examiner will of course put such other questions, bearing upon the case, as he may think proper, and that the whole examination will be thorough, exact, and circumstantial.

1.	A. B. C. D. Name, age, residence, and occupation of the person examined.	A. Name. Monroe Snyder.	B. Age. 52 yrs.	C. Residence. Bethlehem.	
2.	Has this person ever been postponed or declined by a medical examiner of this company?	No.		D. Occupation. Retired merchant.	
3.	State the approximate weight, A; height, B; circumference of chest under clothing, C; figure D.	A. Weight 180.	B. Height. 5 feet. 10 inches.	C. Circumference of chest, under clothing..39 inches. " at forced expiration.....38 inches. " on full inspiration.....42 inches.	D. Figure good, erect.
4.	A. Is the respiratory murmur clear and distinct over both lungs? B. Is the character of the respiration full, easy, and regular? C. Are there any indications of disease of the organs of respiration or their appendages?	A. Yes. B. Yes. C. No.			
5.	A. Is the character of the heart's action uniform, free, and steady? B. Are its sounds and rhythm regular and normal? C. Are there any indications of disease of this organ or of the blood-vessels?	A. Yes. B. Yes. C. No.			
6.	A. State the rate and other qualities of the party's pulse. B. Does it intermit? C. Is it irregular or unsteady?	A. 66 pr. min.; full, soft, & regular. B. No. C. No.		(The rate of pulse must be *written* out in full.)	
7.	Is the party subject to cough, expectoration, difficulty of breathing, or palpitation?	No.			
8.	Are the functions of the brain and nervous system in a healthy state?	Yes.			
9.	Are the functions of the abdominal and urinary organs in a healthy condition?	Yes.			
10.	Has the party any predisposition, either hereditary or acquired, to any constitutional disease, as phthisis, rheumatism, etc.?	No.			
11.	Is the party sober and temperate in his habits of life?	Yes.			
12.	Have the party's parents, brothers, or sisters been afflicted with pulmonary or other diseases hereditary in their nature?	No.			

13.	Has the party ever had any serious illness or injury? If so, state expressly— A. How long since? B. Its nature? C. Its duration? D. Whether any effect is perceptible upon the heart, lungs, kidneys, or other organs?	No.
14.	Do you consider the applicant's life to be safely insurable?	Yes.
15.	Do you recommend that a policy be granted?	Yes.

Dated at Bethlehem, this 9th day of July, 1872.
(Signed) ABM. STOUT.

NOTE.—Where the medical examiner has not been regularly appointed or recognized as such, full testimonials as to character and qualifications must in every case accompany the application.

ADDITIONAL REMARKS.

98 *Special notice to applicants and policy-holders.*

The following facts relating to contracts between this company and its policy-holders are of special importance to all concerned, namely:

1st.—Policies issued prior to June 23d, 1873, in favor of a wife, in conformity with the statute for the benefit of married women in insuring the lives of their husbands, are not assignable for any purpose. Eadie *vs.* Slimmon, 26 N. Y. Reports, (Court of Appeals,) page 1.

But wives' policies, issued subsequent to June 23d, 1873, may be surrendered to and purchased by the company, under the provisions of an act of the legislature of New York, chapter 821, passed June 23d, 1873, upon the written request of the wife, duly acknowledged before an officer authorized to take acknowledgments of deeds, in the same manner as required by law to pass her dower right in the lands of her husband. And in case the wife has no child or children, nor any issue of any child or children, she may dispose of such policy by will or by deed duly acknowledged.

2d.—This company cannot entertain any proposition on the part of the husband to change the interest in a wife's policy while said policy is in force in her favor.

3d.—The company does not agree to restore a policy after lapse for non-payment of premiums; and when, in special cases, policies are restored, satisfactory evidence of the insurable condition of the party must be given.

4th.—No policy-holder must expect to be notified when his premium will be due. It is the practice of the company to send these notices, as reminders, when the address is known, but no responsibility is assumed on the part of the company in consequence of their non-reception.

5th.—It is absolutely necessary, in making inquiries, to state the number of the policy as well as the name of the assured; much annoyance and time to both inquirer and the company will be avoided by observing this suggestion.

6th.—The fact that a policy has a large amount of additions to its credit gives no authority to the company to apply them to the payment of premiums, without written directions from the party interested.

AN ACT to amend an act entitled "An act to amend an act entitled 'An act to amend an act entitled "An act for the benefit of married women in insuring the lives of their husbands," passed April fourteenth, eighteen hundred and fifty-eight,' passed April eighteenth, eighteen hundred and seventy," passed June 23, 1873, three-fifths being present.

The people of the State of New York, represented in senate and assembly, do enact as follows:

§ 1. The second section of the act entitled "An act to amend an act entitled 'An act to amend an act entitled "An act for the benefit of married women in insuring the lives of their husbands," passed April fourteenth, eighteen hundred and fifty-eight,' passed April eighteenth, eighteen hundred and seventy," is hereby amended so as to read as follows:

§ 2. Any policy in favor of a married woman, or of her and her children, or assigned in her, or in her and their favor, on written request of said married woman, duly acknowledged before a commissioner of deeds, or other officer authorized to take acknowledgments of deeds in the same manner as required by law, to pass her dower right in lands of her husband, and on the written request of the policy-holder, may be surrendered to and purchased by the company issuing the same in the same manner as any other policy. And such married woman may, in case she have no child or children born of her body, or any issue of any child or children born of her body, dispose of such policy in and by a last will and testament, or any instrument in the nature of a last will and testament, or by deed duly executed and acknowledged before an officer authorized to take acknowledgments of deeds, in the same manner as required by law to pass her dower right in lands of her husband, which disposition lawfully made shall invest the person or persons to whom such policy shall have been so bequeathed, or granted and conveyed, with the same rights in respect thereto as such married woman would have had in case she survived the person on whose life such policy was issued, and such legatee or grantee shall have the same right to dispose of such policy as herein conferred on such married woman.

§ 3. This act shall take effect immediately.

THE MUTUAL LIFE-INSURANCE COMPANY OF NEW YORK.

Quarterly premiums for an insurance of $1,000.

1. Life-policies, payable at death only.				2. Endowment assurance policies, payable as indicated, or at death, if prior.							3. Quarterly premiums for 10 years, to secure an endowment assurance of $1,000, payable as follows, with full participation in the surplus of the company.						
Age.	Quarterly payments for life.	Quarterly paym'ts for 10 yrs.	Quarterly paym'ts for 5 yrs.	Age.	In 5 years.	In 15 years.	In 20 years.	In 25 years.	In 30 years.	In 35 years.	Age.	In 10 years.	In 15 years.	In 20 years.	In 25 years.	In 30 years.	In 35 years.
25	5 28	11 28	19 58	25	58 29	17 50	12 64	9 85	8 11	6 98	25	27 54	23 30	19 98	17 40	15 41	13 92
26	5 41	11 50	19 94	26	58 32	17 53	12 68	9 90	8 16	7 04	26	27 57	23 33	20 02	17 45	15 48	14 00
27	5 55	11 72	20 32	27	58 35	17 57	12 72	9 95	8 22	7 11	27	27 60	23 37	20 06	17 50	15 55	14 09
28	5 70	11 95	20 72	28	58 38	17 61	12 76	10 00	8 28	7 18	28	27 64	23 41	20 11	17 56	15 62	14 19
29	5 85	12 20	21 13	29	58 41	17 65	12 80	10 06	8 35	7 27	29	27 67	23 45	20 16	17 62	15 70	14 30
30	6 01	12 45	21 56	30	58 44	17 70	12 86	10 12	8 42	7 36	30	27 71	23 50	20 22	17 69	15 80	14 42
31	6 19	12 72	22 01	31	58 48	17 75	12 92	10 18	8 50	7 45	31	27 76	23 55	20 28	17 77	15 90	14 55
32	6 37	12 99	22 47	32	58 52	17 80	12 98	10 25	8 59	7 56	32	27 80	23 60	20 34	17 85	16 00	14 69
33	6 57	13 28	22 95	33	58 57	17 85	13 05	10 33	8 69	7 68	33	27 85	23 66	20 41	17 94	16 12	14 85
34	6 77	13 58	23 46	34	58 62	17 91	13 12	10 42	8 80	7 81	34	27 90	23 72	20 49	18 04	16 25	15 02

35	6 99	13 89	23 98	35	58 67	17 98	13 20	10 52	8 91	7 95	35	27 96	23 79	20 57	18 15	16 40	15 20
36	7 22	14 22	24 52	36	58 72	18 05	13 28	10 62	9 04	8 10	36	28 02	23 86	20 66	18 27	16 55	15 40
37	7 47	14 55	25 09	37	58 77	18 13	13 37	10 73	9 18	8 27	37	28 09	23 93	20 76	18 40	16 72	15 62
38	7 73	14 90	25 68	38	58 83	18 22	13 47	10 86	9 33	8 46	38	28 16	24 02	20 86	18 54	16 91	15 86
39	8 00	15 28	26 29	39	58 90	18 32	13 59	11 00	9 50	8 67	39	28 24	24 11	20 98	18 70	17 12	16 12
40	8 29	15 66	26 92	40	58 97	18 42	13 72	11 15	9 70	8 89	40	28 33	24 21	21 11	18 87	17 35	16 40
41	8 60	16 06	27 58	41	59 05	18 53	13 86	11 33	9 91	.....	41	28 43	24 33	21 26	19 06	17 59	.....
42	8 94	16 48	28 27	42	59 14	18 66	14 02	11 52	10 14	.....	42	28 53	24 45	21 42	19 27	17 86	.....
43	9 29	16 92	28 98	43	59 23	18 80	14 19	11 73	10 39	.....	43	28 64	24 59	21 60	19 50	18 15	.....
44	9 66	17 38	29 72	44	59 33	18 95	14 38	11 96	10 66	.....	44	28 76	24 74	21 79	19 75	18 47	.....
45	10 06	17 86	30 48	45	59 44	19 12	14 59	12 22	10 94	.....	45	28 90	24 90	22 00	20 02	18 82	.....
46	10 49	18 36	31 28	46	59 56	19 31	14 82	12 50	.....	.....	46	29 06	25 09	22 24	20 34	.....	.....
47	10 95	18 88	32 10	47	59 69	19 52	15 08	12 80	.....	.....	47	29 23	25 30	22 50	20 67	.....	.....
48	11 43	19 43	32 96	48	59 84	19 75	15 36	13 15	.....	.....	48	29 42	25 53	22 80	21 04	.....	.....
49	11 95	20 00	33 85	49	60 00	20 01	15 68	13 52	.....	.....	49	29 63	25 78	23 12	21 44	.....	.....
50	12 50	20 61	34 77	50	60 18	20 30	16 02	13 98	.....	.....	50	29 86	26 06	23 46	21 91	.....	.....
51	13 10	21 24	35 72	51	60 39	20 61	16 40	.....	.....	.....	51	30 12	26 36	23 85	.....	.....	.....
52	13 72	21 90	36 70	52	60 61	20 95	16 82	.....	.....	.....	52	30 40	26 70	24 27	.....	.....	.....
53	14 39	22 58	37 72	53	60 85	21 34	17 29	.....	.....	.....	53	30 70	27 07	24 73	.....	.....	.....
54	15 11	23 30	38 77	54	61 10	21 75	17 80	.....	.....	.....	54	31 04	27 48	25 22	.....	.....	.....
55	15 88	24 06	39 85	55	61 40	22 22	18 35	.....	.....	.....	55	31 41	27 92	25 77	.....	.....	.....
56	16 70	24 85	40 97	56	61 72	22 72	.....	.....	.....	.....	56	31 82	28 40	.....	.....	.....	.....
57	17 57	25 68	42 12	57	62 06	23 28	.....	.....	.....	.....	57	32 27	28 94	.....	.....	.....	.....
58	18 50	26 55	43 31	58	62 44	23 89	.....	.....	.....	.....	58	32 77	29 53	.....	.....	.....	.....
59	19 50	27 47	44 54	59	62 86	24 56	.....	.....	.....	.....	59	33 31	30 16	.....	.....	.....	.....
60	20 57	28 45	45 81	60	63 31	25 31	.....	.....	.....	.....	60	33 91	30 87	.....	.....	.....	.....
61	21 72	29 48	47 12	61	63 82	.....	.....	.....	.....	.....	61	34 57	.....	.....	.....	.....	.....
62	22 94	30 56	48 48	62	64 36	.....	.....	.....	.....	.....	62	35 30	.....	.....	.....	.....	.....
63	24 26	31 71	49 89	63	64 97	.....	.....	.....	.....	.....	63	36 10	.....	.....	.....	.....	.....
64	25 67	32 94	51 35	64	65 62	.....	.....	.....	.....	.....	64	36 97	.....	.....	.....	.....	.....
65	27 18	34 24	52 86	65	66 35	.....	.....	.....	.....	.....	65	37 94	.....	.....	.....	.....	.....

N. B.—The company will issue policies on a single life to the extent of $30,000, but, as in all other cases, only where the physical condition and family history of the applicant are entirely unexceptionable.

Established Feb. 1st, 1843.

The Mutual Life-Insurance Co. of New York offers the following peculiar advantages to persons intending to insure their lives:

The assets are larger than those of any other life-insurance company in the United States, amounting to sixty-five millions of dollars, and are exclusively cash.

The dividends have been larger in amount and in proportion to premiums paid than ever declared by any other company.

The business of this company is conducted on the mutual principle, in the strictest sense of the term; the entire surplus, deducting necessary expenses alone, being equitably divided among the assured.

The rates of premium are lower than those of the majority of other life-insurance companies, yet the dividends have been greater; the result of a very low rate of mortality among the insured, consequent on a most careful and judicious selection of lives, and a favorable rate of interest.

The mortality among its members has been proportionably less than that of any other life-insurance company in either America or Europe, whose experience has been made known—a result in the highest degree favorable to our policy-holders.

The amount insured in this company exceeds that of any other life-insurance company in the United States, thus affording greater security, the necessary law of average having more scope for operation.

The assets of the company are all cash; and being invested exclusively in bonds and mortgages on real estate (worth in each case at least double the amount loaned) and in United States and New York State stocks, the solidity and security of the company must be conceded.

Dividends annually, commencing the first year, and available either to increase the amount insured or in cash to reduce the premiums.

AN ACT for the benefit of married women in insuring the lives of their husbands, passed April 14, 1858, as amended March 28, 1862, and April 18, 1870.

The people of the State of New York, represented in senate and assembly, do enact as follows:

§ 1. It shall be lawful for any married woman, by herself, and in her name, or in the name of any third person, with his assent, as her trustee, to cause to be insured, for her sole use, the life of her husband for any definite period, or for the term of his natural life; and in case of her surviving such period or term, the sum or net amount of the insurance becoming due and payable by the terms of the insurance, shall be payable to her, to and for her own use, free from the claims of the representatives of the husband, or of any of his creditors, or any party or parties claiming by, through, or under him. But when the premium paid in any year out of the property or funds of the husband shall exceed five hundred dollars, such exemption from such claims shall not apply to so much of said premium so paid as shall be in excess of five hundred dollars, but such excess, with the interest thereon, shall inure to the benefit of his creditors.

§ 2. The amount of the insurance may be made payable, in case of the death of the wife before the period at which it becomes due, to her husband, or to his, her, or their children, for their use, as shall be provided in the policy of insurance, and to their guardian, if under age.

Do not write here.	Name of person assured. $10,000. Monroe Snyder.

Application to the Mutual Life-Insurance Company of New York, 144 & 146 Broadway.

No. of policy, 132,742.
Kind of " , life, due 18 .
Date of " , 11 day of July, 1873.
Am't of " , $10,000.
Age of party, 52 years.

------year ann'l premium	$517 80
----------% extra "	$1.
Policy-fee	$
	$518 80

The above blank spaces are to be filled up only at the New York office.

VANUXEM, BATES & LAMBERT.

H. Austice & Co., stationers, 23 Nassau street, New York.

(Written across in red ink:) Copy.

[Cut.]

Office of the company.

BOARD OF TRUSTEES.

Frederick S. Winston,
John V. L. Pruyn,
Robert H. McCurdy,
Isaac Green Pearson,
William Betts,
John Wadsworth,
Samuel M. Cornell,
Samuel E. Sproulls,
Lucius Robinson,

Richard Patrick,
William H. Popham,
Samuel D. Babcock,
William Smith Brown,
Henry A. Smythe,
William E. Dodge,
George S. Coe,
William M. Vermilye,
John E. Develin,

Martin Bates,
William A. Haines,
Seymour L. Husted,
Oliver H. Palmer,
Henry E. Davies,
Richard A. McCurdy,
Francis Skiddy,
J. Elliot Condict,
James C. Holden,

Herman C. Von Post,
George C. Richardson,
Alexander H. Rice,
William F. Babcock,
F. Ratchford Starr,
Frederick H. Cossitt,
Lewis May,
Oliver Harriman,
Thomas Dickson.

FREDERICK S. WINSTON, *President.*
RICHARD A. McCURDY, *Vice-Pres't.*

WILLIAM H. C. BARTLETT, LL. D., *Actuary.*

JOHN M. STUART, *Secretary.*

OLIVER H. PALMER, *Solicitor.*

ISAAC L. KIP, M. D.,
GUSTAVUS S. WINSTON, M. D., } *Medical Examiners.*

☞ Note carefully the name of this company, the Mutual Life-Insurance Company of New York, that it may not be confounded with others somewhat similar.

[Copy.]

99 The particular attention of applicants is called to the installment feature, which is fully explained in the company's documents. [Page 1.

Do not write in this space or above it.

Application for insurance to the Mutual Life-Insurance Company of New York, 144 & 146 Broadway, corner of Liberty street, New York City.

Particulars required from persons proposing to effect assurances on lives in this company, and which it is hereby mutually agreed do form a part of the contract with the company.

1. Name of the person whose life is proposed to be assured. (Write the name in full.)	Occupation.	Residence.	Place of business.
Monroe Snyder.	Retired merchant.	Place .....Bethlehem. County .....Northampton. State .....Pennsylvania.	Bethlehem.

☞ In giving the occupation of the person, it is not sufficient to state (for example) that he is a merchant or mechanic, but the particular branch of business, or the actual trade, must be specified. ☜

	[Yes or no.]	Give the number of each policy and the amount assured thereby separately.	
2. A. Are you now insured in this company? B. If so, what are the numbers and amounts of the policies? C. If you are not now insured, but have been heretofore, state the number of the policy.	A. Yes.	B. 132742. $10,000.	C.

3. Sum to be assured? $10,000.	Dollars—Ten thousand.	3. A. Do you wish the policy made payable in one sum or in installments?
4. What kind of a policy do you desire? (A policy, premiums payable until death? or, paid up in 5 or 10 years? or endowment, payable until age specified? or, paid up in 10 yrs?	Life. See rates of premium on pages 2 and 4.	One sum.
5. Do you agree to pay the premiums annually, semi-annually, or quarterly? Annually is preferable, if it can be done.	Annually.	

6. Give the date and place of your birth.	Year.	Month.	Day.	State or country.	3. B. If in installments, how many?
	1820.	Jany.	31.	Pennsylvania.	

7. A. What will be your age next birth-day? B. Are you married or single?	A. 53.	B. Married.

MUTUAL LIFE INSURANCE CO. OF N. Y. VS. SNYDER. 45

8. A. Have you ever resided out of the United States? B. If so, where, and for what period?	A. No.	B.	3. C. Do you wish such installments to be annual, semi-annual, or quarterly?
9. A. If you have ever resided south or west of the southerly line of Virginia and Kentucky, have you been acclimated? B. If so, how?	A. No.	B.	

	Alive or dead?	If alive, at what age?	State of health?	Ages at death?	Causes of death?
10. A. Is your father alive or dead?	A.	A.	A.	A. 77.	A. Dropsy of heart.
B. Is your mother alive or dead?	B.	B.	B.	B. 65.	B. Heart fever.

	Total number?	How many are living?	What are their ages?	State of health of each?	How many are dead?	Ages at death?	Causes of death?
11. A. How many brothers have you had?	A. 1.	A.	A	A.	A. 1.	A. 45.	A. Cholera.
B. How many sisters have you had?	B. 4.	B. 3.	47. B. 54. 49.	Good. B. Good. Good.	B. 1.	B. 42.	B. Typhoid fever.

12. A. Has your family been subject to any hereditary disease? B. Have your ancestors generally reached old age?	A. No. B. Yes.
13. Have you ever had any of the following diseases? Spitting of blood, liver complaint, consumption, yellow fever, paralysis, palpitation, bronchitis, small-pox, rupture, apoplexy, insanity, scrofula, pneumonia, fistula, asthma, dropsy, fits, gout, palsy, bilious, renal or hepatic colic, rheumatism, and of what nature; disease of the heart, disease of the urinary organs, or of any other vital part.	If so, state which, how recently, and the full particulars. Small-pox. None of rest.
14. A. Have you ever had any serious illness, local disease, or personal injury? If so, of what nature? B. Have you ever been vaccinated?	A. Small-pox. B. Yes.
15. A. Are the functions of your brain, nervous and muscular systems, heart, lungs, abdominal and urinary organs in a healthy state? B. And are you, to the best of your knowledge and belief, free from any disorder, infirmity, or weakness tending to impair your constitution and shorten your life?	A. Yes. B. Yes.
16. A. Are your habits of life correct and temperate? B. Have they always been so?	A. Yes. B. Yes.

17. How long since you were attended by a physician? For what?	Name and residence of your usual medical attendant?	☞ The blank No. 4 on page 3 must be filled up and signed by him. Has known me ..... years.

REC. 289—4

17. How long since you were attended by a physician? For what diseases? Give name and residence of such physician.	Not for twenty years.	Name and residence of your usual medical attendant?	☞ The blank No. 4 on page 3 must be filled up and signed by him. Has known me ..... years.
		Name and residence of an intimate friend?	John E. Lentz. Has known me 15 years. ☞ The blank No. 3 on page 2 must be filled up and signed by him.

18. For whose benefit is the assurance to be effected? (Write all names in full.)	Relationship to life to be assured.	Residence.	Occupation.
Lewis W. Snyder.	Son.	Place .....Bethlehem. County .....Northampton. State.....Pennsylvania.	Druggist.

19. It is hereby affirmed, declared, and warranted by Lewis W. Snyder, the applicant above named, and also by the person whose life is proposed for assurance, that the answers to all of the above questions, and to the questions propounded to the "friend" and physician of the party, on pages 2 and 3, are true and correct, and that no intentional omission, concealment, or mental reservation has been made of any material facts or circumstances relating to the past or present health, habits, or condition, or the family history of the above-named Monroe Snyder.

It is also declared that the above-named applicant has an interest in the life of the said person whose life is proposed for insurance to the full extent of the amount of insurance above applied for.

And it is hereby expressly stipulated and agreed that the above application and this declaration shall form the basis of the contract between the above-named persons and the said The Mutual Life-Insurance Company of New York, and that if any misrepresentations or fraudulent and untrue answers have been made; or if any facts which should have been stated to the company have been suppressed therein; or if any violation of the covenants, conditions, or restrictions of the policy (should one be issued) shall occur; or any omission or neglect to pay any of the premiums on or before the days on which they shall fall due shall take place; that then, in either event, the said policy shall become and be null and void, and all moneys which shall have been paid, and also all dividends which may have accrued thereon, shall be forfeited to the said company for its sole use and benefit.

And the said person whose life is proposed for insurance further declares that he is not now afflicted with any disease or disorder; that he does not now, and that he will not, practice any pernicious habit that obviously tends to the shortening of life; and that he will not take his own life under any circumstances or condition of mind; also, that the medical referee and the friend above named are fully competent and empowered to give information as to his past and present state of health, and other matters contained in this application; which representations are true.

Dated at Allentown this 18 day of Sept., 1872.

Signed in the presence of—

DANL. Z. WALKER, *Witness.*

{ Signatures of the applicants or the persons for whose benefit the assurance is applied for. } LEWIS SNYDER, By MONROE SNYDER.

Blank No. 2.]

{ Signature of the person whose life is proposed for assurance. } MONROE SNYDER.

INSTRUCTIONS AS TO SIGNATURES.

A husband may sign for his wife thus: "Mary White, by John White," if it be inconvenient to procure her own signature.

When a creditor assures the life of a debtor, both must sign.

When assurance is desired for the benefit of minor children, it should be signed e. g.: "John White as guardian (or trustee) for Anna B., Lucy M., my children," (or "children of ——.")

(Printed and written on left margin of page 1 of application:) Approved by Vanuxem, Bates and Lambert, general agents.

The family record of the party should always (when possible) be consulted before stating the age, to avoid error. When a person wishes to be assured for his own benefit, question 1 only is to be answered; but if for the benefit of any other person or persons, question 18 must also be answered.

(Printed on right margin of page 1 of application:) NOTICE.—This company accepts cash only in payment of premiums. No policy is binding until the premium has been paid. Statements will not be recognized by the company unless the same are made in writing upon this application.

(Printed on bottom margin of page 1 of application:) The full names of all the parties must be written plainly and distinctly, especially the Christian names, which should not be abbreviated, and every question must be fully answered.

(Written across in red ink:) Copy.

ANNUAL PREMIUMS FOR AN INSURANCE OF $1,000.

1. Life-policies, payable at death only.				2. Endowment assurance policies, payable as indicated, or at death, if prior.							3. Annual premiums for 10 years to secure an endowment assurance of $1,000, payable as follows, with full participation in the surplus of the company.						
Age.	Annual payments for life.	Annual payments for 10 years.	Annual payments for 5 years.	Age.	In 5 years.	In 15 years.	In 20 years.	In 25 years.	In 30 years.	In 35 years.	Age.	In 10 years.	In 15 years.	In 20 years.	In 25 years.	In 30 years.	In 35 years.
25	19 89	42 56	73 87	25	219 95	66 02	47 68	37 17	30 61	26 33	25	103 91	87 92	75 39	65 64	58 14	52 50
26	20 40	43 37	75 25	26	220 05	66 15	47 82	37 34	30 80	26 57	26	104 03	88 05	75 54	65 83	58 39	52 82
27	20 93	44 22	76 69	27	220 17	66 29	47 98	37 52	31 02	26 83	27	104 16	88 19	75 71	66 04	58 65	53 17
28	21 48	45 10	78 18	28	220 29	66 44	48 15	37 72	31 25	27 11	28	104 29	88 34	75 89	66 26	58 94	53 54
29	22 07	46 02	79 74	29	220 41	66 60	48 33	37 92	31 50	27 42	29	104 43	88 50	76 08	66 50	59 25	53 95
30	22 70	46 97	81 36	30	220 54	66 77	48 53	38 16	31 78	27 76	30	104 58	88 67	76 29	66 76	59 60	54 40
31	23 35	47 98	83 05	31	220 70	66 96	48 74	38 41	32 09	28 13	31	104 75	88 86	76 52	67 06	59 98	54 90
32	24 05	49 02	84 80	32	220 85	67 16	48 97	38 69	32 43	28 54	32	104 92	89 06	76 76	67 37	60 39	55 44
33	24 78	50 10	86 62	33	221 01	67 36	49 22	38 98	32 79	28 98	33	105 11	89 27	77 02	67 70	60 84	56 03
34	25 56	51 22	88 52	34	221 18	67 60	49 49	39 31	33 19	29 46	34	105 31	89 50	77 30	68 08	61 33	56 67
35	26 38	52 40	90 49	35	221 37	67 85	49 79	39 68	33 63	30 00	35	105 53	89 75	77 62	68 49	61 87	57 37
36	27 25	53 63	92 54	36	221 57	68 12	50 11	40 07	34 11	30 58	36	105 75	90 02	77 95	68 93	62 46	58 13
37	28 17	54 91	94 67	37	221 78	68 41	50 47	40 50	34 64	31 22	37	106 00	90 31	78 33	69 42	63 10	58 96
38	29 15	56 24	96 89	38	222 01	68 73	50 86	40 98	35 23	31 93	38	106 28	90 63	78 73	69 96	63 81	59 86
39	30 19	57 63	99 19	39	222 26	69 09	51 30	41 52	35 88	32 70	39	106 58	90 98	79 18	70 56	64 59	60 84
40	31 30	59 09	101 59	40	222 53	69 49	51 78	42 10	36 59	33 55	40	106 90	91 37	79 68	71 21	65 44	61 90
41	32 47	60 60	104 08	41	222 83	69 92	52 31	42 75	37 38	.....	41	107 26	91 79	80 23	71 93	66 37	.....
42	33 72	62 19	106 66	42	223 15	70 40	52 89	43 47	38 24	.....	42	107 65	92 26	80 83	72 72	67 39	.....
43	35 05	63 84	109 34	43	223 49	70 92	53 54	44 26	39 19	.....	43	108 08	92 78	81 49	73 58	68 50	.....
44	36 46	65 57	112 13	44	223 87	71 50	54 25	45 12	40 23	.....	44	108 55	93 34	82 22	74 54	69 70	.....
45	37 97	67 37	115 02	45	224 28	72 14	55 04	46 08	41 37	.....	45	109 07	93 97	83 03	75 58	71 01	.....
46	39 58	69 26	118 02	46	224 74	72 86	55 91	47 15	.....	.....	46	109 65	94 67	83 93	76 74	.....	.....
47	41 30	71 25	121 15	47	225 25	73 66	56 89	48 32	.....	.....	47	110 30	95 46	84 92	78 01	.....	.....

| | | |

SEMI-ANNUAL PREMIUMS FOR AN INSURANCE OF $1,000.

1. Life-policies, payable at death only.				2. Endowment assurance policies, payable as indicated, or at death, if prior.							3. Semi-annual premiums for 10 years, to secure an endowment assurance of $1,000, payable as follows, with full participation in the surplus of the company.						
Age.	Semi-annual payments for life.	Semi-annual payments for 10 years.	Semi-annual payments for 5 years.	Age.	In 5 years.	In 15 years.	In 20 years.	In 25 years.	In 30 years.	In 35 years.	Age.	In 10 years.	In 15 years.	In 20 years.	In 25 years.	In 30 years.	In 35 years.
25	10 35	22 13	38 41	25	114 37	34 33	24 80	19 33	15 91	13 69	25	54 04	45 72	39 20	34 13	30 24	27 30
26	10 61	22 54	39 13	26	114 43	34 40	24 87	19 42	16 02	13 81	26	54 10	45 79	39 28	34 23	30 37	27 47
27	10 89	23 00	39 88	27	114 49	34 47	24 95	19 51	16 13	13 95	27	54 17	45 86	39 37	34 34	30 50	27 65
28	11 17	23 46	40 65	28	114 55	34 55	25 04	19 62	16 25	14 10	28	54 23	45 94	39 46	34 46	30 65	27 84
29	11 48	23 93	41 46	29	114 61	34 63	25 13	19 73	16 38	14 26	29	54 30	46 02	39 56	34 58	30 81	28 06
30	11 80	24 43	42 30	30	114 68	34 72	25 24	19 85	16 53	14 44	30	54 38	46 11	39 67	34 72	30 99	28 29
31	12 14	24 95	43 19	31	114 76	34 82	25 35	19 98	16 68	14 63	31	54 47	46 20	39 79	34 87	31 19	28 55
32	12 50	25 49	44 10	32	114 84	34 93	25 47	20 12	16 86	14 84	32	54 56	46 31	39 92	35 03	31 40	28 83
33	12 89	26 05	45 04	33	114 92	35 03	25 60	20 27	17 05	15 07	33	54 66	46 42	40 05	35 20	31 64	29 14
34	13 29	26 64	46 03	34	115 01	35 15	25 74	20 44	17 26	15 32	34	54 76	46 54	40 20	35 40	31 89	29 47
35	13 72	27 25	47 05	35	115 11	35 28	25 89	20 63	17 49	15 60	35	54 87	46 67	40 36	35 62	32 17	29 83
36	14 17	27 89	48 12	36	115 22	35 42	26 06	20 84	17 74	15 90	36	54 99	46 81	40 54	35 85	32 48	30 23
37	14 65	28 56	49 23	37	115 33	35 57	26 24	21 06	18 02	16 24	37	55 12	46 96	40 73	36 10	32 81	30 66
38	15 16	29 25	50 38	38	115 45	35 74	26 45	21 31	18 32	16 60	38	55 27	47 13	40 94	36 38	33 18	31 13
39	15 70	29 97	51 58	39	115 57	35 92	26 68	21 59	18 66	17 00	39	55 42	47 31	41 18	36 69	33 59	31 64
40	16 28	30 73	52 83	40	115 71	36 13	26 93	21 89	19 03	17 45	40	55 59	47 51	41 44	37 03	34 03	32 19
41	16 89	31 51	54 12	41	115 87	36 36	27 20	22 23	19 44	.....	41	55 78	47 73	41 72	37 40	34 52	.....
42	17 54	32 34	55 47	42	116 04	36 61	27 50	22 60	19 89	.....	42	55 98	47 98	42 03	37 82	35 05	.....
43	18 23	33 20	56 85	43	116 22	36 88	27 84	23 02	20 38	.....	43	56 20	48 25	42 38	38 26	35 62	.....
44	18 96	34 10	58 31	44	116 41	37 18	28 21	23 45	20 92	.....	44	56 45	48 54	42 76	38 76	36 25	.....
45	19 75	35 04	59 81	45	116 62	37 52	28 62	23 96	21 51	.....	45	56 72	48 87	43 18	39 30	36 93	.....
46	20 58	36 02	61 37	46	116 87	37 89	29 08	24 52	.....	.....	46	57 02	49 23	43 65	39 90	.....	.....
47	21 48	37 05	63 00	47	117 13	38 30	29 58	25 13	.....	.....	47	57 36	49 64	44 16	40 57	.....	.....
48	22 43	38 13	64 68	48	117 42	38 76	30 14	25 80	.....	.....	48	57 73	50 08	44 73	41 29	.....	.....
49	23 45	39 26	66 43	49	117 75	39 27	30 76	26 54	.....	.....	49	58 14	50 58	45 36	42 07	.....	.....

50	24 54	40 44	68 23	50	118 10	39 83	31 44	27 35			50	58 60	51 13	46 04	42 96	
51	25 69	41 68	70 10	51	118 50	40 44	32 19				51	59 10	51 73	46 80		
52	26 93	42 96	72 02	52	118 94	41 14	33 01				52	59 65	52 39	47 62		
53	28 24	44 32	74 01	53	119 40	41 87	33 92				53	60 25	53 12	48 52		
54	29 65	45 73	76 07	54	119 92	42 69	34 92				54	60 91	53 91	49 50		
55	31 16	47 21	78 20	55	120 48	43 59	36 00				55	61 64	54 78	50 57		
56	32 76	48 77	80 39	56	121 10	44 58					56	62 45	55 74			
57	34 47	50 40	82 65	57	121 78	45 68					57	63 33	56 79			
58	36 30	52 11	84 98	58	122 52	46 88					58	64 30	57 94			
59	38 27	53 91	87 40	59	123 34	48 20					59	65 37	59 19			
60	40 37	55 82	89 89	60	124 24	49 66					60	66 54	60 58			
61	42 62	57 84	92 47	61	125 22						61	67 84				
62	45 02	59 97	95 14	62	126 29						62	69 26				
63	47 60	62 23	97 90	63	127 48						63	70 83				
64	50 37	64 63	100 76	64	128 78						64	72 55				
65	53 33	67 19	103 73	65	130 20						65	74 45				

N. B.—For ages younger than 25 years, the rates of premium on all the above tables are the same as that at age 25 years.

ALTERATION OF POLICIES.—Changes in the manner of paying premiums (as from yearly to half-yearly or quarterly, or the reverse) can only be made at the end of a year, dating from the commencement of the policy; and when such a change is desired by a policy-holder, the policy must be forwarded to the office of the company for the proper and requisite indorsement.

A change of interest in a policy can only be made on the written request of the legal owner of the policy, and with the consent of the company. The dates of payment cannot be changed after a policy has been issued, and the amount assured can only be increased (if desired) by a new policy. The fiscal (or business) year of the company closes on the 31st of December. A policy issued in any year must be dated within that year. It cannot be dated prior to the commencement, or subsequent to the close, of the fiscal year of the company.

ASSIGNMENTS.—A wife cannot legally assign a policy issued under the married women's act for the benefit of herself and children.

When a policy is issued to a person on his own life, and afterwards assigned by him, written notice of such assignment must be given to the company for registration on its books. All assignments to be valid require a revenue-stamp equal to that on the policy.

EXTRA RATES.—Permits are required for travel or residence beyond the limits assigned in the policy, and for hazardous occupations, for which application must be made to the principal office. Extra rates in such cases are always charged as a percentage on the amount assured, and not on the amount of premium. An extra rate of $\frac{1}{4}$ of 1 per cent. is charged on the lives of females under the age of 48.

Receipts for premiums, to be valid, must be issued from the office and be signed by the president, vice-president, secretary, or actuary.

Blank No. 3.] THE MUTUAL LIFE-INSURANCE COMPANY OF NEW YORK.

Questions, each of which is to be answered by the friend of the party applying for assurance.

1. How long have you known Mr. Monroe Snyder?	15 years.
2. A. Are his general habits of life temperate? B. Have they always been so?	A. Yes. B. Yes.
3. Is he accustomed to much exercise, or is he sedentary?	Active.
4. Have his parents, brothers, or sisters, to your knowledge, been afflicted with mental derangement, pulmonary complaints, or any constitutional or hereditary predisposition to disease that tends to shorten life?	No.
5. Has he been afflicted with any serious disease?	No.
6. Has he been afflicted with any mental derangement?	No.
7. Do you esteem him a healthy man, and free from any circumstance tending to shorten life?	Yes.
8. Do you believe him to be now in good sound health?	Yes.
9. A. If residing south of the southerly line of Virginia and Kentucky, has he been acclimated? B. If so, how?	A. B.
10. Is his constitution healthy, and are his habits and circumstances such as to render his life safely assurable?	Yes.

Dated at Allentown, this 18 day of Sept., 1872.

(Signed) JOHN E. LENTZ.

THE MUTUAL LIFE-INSURANCE COMPANY OF NEW YORK.

Questions, each of which is to be answered by the physician of the person applying for assurance.

The physician is expected to give any additional information upon the application which he may possess, even though it be not embraced in the answers to the queries annexed.

1. How long have you known M.....?

2. A. Have you been in the habit of seeing him frequently, and giving him medical attendance, and for what diseases? A.
   B. How recently have you attended him? B.

3. Is he now in good health?

4. A. Is he sober and temperate? A.
   B. Has he always been so? B.

5. A. Has his family, or has he himself, been afflicted with pulmonary complaints, scrofula, insanity, or any constitutional or hereditary disease? A.
   B. Have his family, or has he, any such predisposition? B.

6. Has he, at any time, been afflicted with insanity, gout, rheumatism, dropsy, palsy, apoplexy, disease of the heart, aneurism, rupture, fistula, spitting of blood, affection of the lungs or other viscera, or with any organic disease?

7. A. Is his pulse soft and regular? A.
   B. What is its rate? B.
   C. Does it, to your knowledge, ever intermit or become irregular? C.

8. A. Are the functions of his brain, nervous and muscular systems, his lungs, his heart, his abdominal and urinary organs, in a healthy condition? A.
   B. Has he ever had disease of these organs? B.
   C. Has he had any serious injury or illness; if so, what effect has it had on his constitution? C.

9. Is his constitution healthy, and are his habits and circumstances such as to render him safely assurable?

Dated at .....this .....day of ..... 187 .

Signed, ...

ADDITIONAL REMARKS.

MUTUAL LIFE-INSURANCE CO. OF N. Y. VS. SNYDER. 53

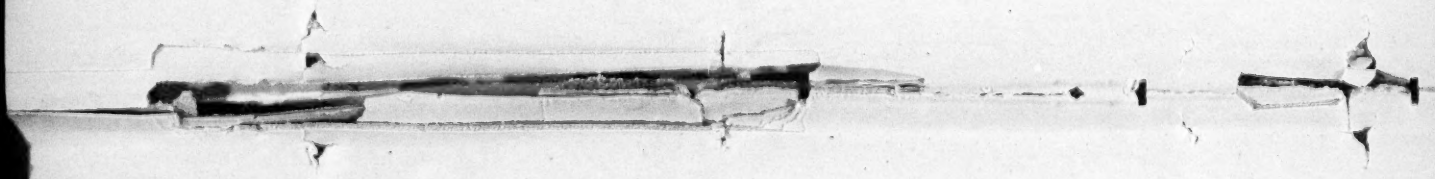
Blank No. 5.

THE MUTUAL LIFE-INSURANCE COMPANY OF NEW YORK.

Questions, each of which is to be answered by the medical examiner of the company, and which the applicant presents as part of his application.

N. B.—It is understood that the medical examiner will of course put such other questions, bearing upon the case, as he may think proper, and that the whole examination will be thorough, exact, and circumstantial.

1.	A. B. C. D. Name, age, residence, and occupation of the person examined.	A. Name. Monroe Snyder.	B. Age. 53 yrs.	C. Residence. Bethlehem. Pa.
2.	Has this person ever been postponed or declined by a medical examiner of this company?	No.		D. Occupation. Retired merchant.
3.	State the approximate weight, A; height, B; circumference of chest under clothing, C; figure, D.	A. Weight. 180 lbs.	B. Height. 5 feet. 10 inches.	C. Circumference of chest, under clothing 39½ inches. " at forced expiration....38½ inches. " on full inspiration.....41½ inches. D. Figure erect.
4.	A. Is the respiratory murmur clear and distinct over both lungs? B. Is the character of the respiration full, easy, and regular? C. Are there any indications of disease of the organs of respiration or their appendages?	A. Yes. B. Yes. C. No.		
5.	A. Is the character of the heart's action uniform, free, and steady? B. Are its sounds and rhythm regular and normal? C. Are there any indications of disease of this organ or of the blood-vessels?	A. Yes. B. Yes. C. No.		
6.	A. State the rate and other qualities of the party's pulse. B. Does it intermit? C. Is it irregular or unsteady?	A. Seventy; soft, full, & regular. B. No. C. No.		(The rate of pulse must be *written* out in full.)
7.	Is the party subject to cough, expectoration, difficulty of breathing, or palpitation?	No.		
8.	Are the functions of the brain and nervous system in a healthy state?	Yes.		
9.	Are the functions of the abdominal and urinary organs in a healthy condition?	Yes.		
10.	Has the party any predisposition, either hereditary or acquired, to any constitutional disease, as phthisis, rheumatism, etc.?	No.		
11.	Is the party sober and temperate in his habits of life?	Yes.		
12.	Have the party's parents, brothers, or sisters been afflicted with pulmonary or other diseases hereditary in their nature?	No.		



13.	Has the party ever had any serious illness or injury? If so, state expressly— A. How long since? B. Its nature? C. Its duration? D. Whether any effect is perceptible upon the heart, lungs, kidneys, or other organs?	No.
14.	Do you consider the applicant's life to be safely insurable?	Life healthy; risk good.
15.	Do you recommend that a policy be granted?	Yes.

Dated at Allentown, Pa., this 18th day of September, 1872.

(Signed) E. G. MARTIN, M. D.

NOTE.—Where the medical examiner has not been regularly appointed or recognized as such, full testimonials as to character must in every case accompany the application.

ADDITIONAL REMARKS.

102 *Special notice to applicants and policy-holders.*

The following facts relating to contracts between this company and its policy-holders are of special importance to all concerned, namely:

1st.—Policies issued prior to June 23d, 1873, in favor of a wife, in conformity with the statute for the benefit of married women in insuring the lives of their husbands, are not assignable for any purpose. Eadie *vs.* Slimmon, 26 N. Y. Reports, (Court of Appeals,) page 1.

But wives' policies, issued subsequent to June 23d, 1873, may be surrendered to and purchased by the company, under the provisions of an act of the legislature of New York, chapter 821, passed June 23d, 1873, upon the written request of the wife, duly acknowledged before an officer authorized to take acknowledgments of deeds, in the same manner as required by law to pass her dower right in the lands of her husband. And in case the wife has no child or children, nor any issue of any child or children, she may dispose of such policy by will or by deed duly acknowledged.

2d.—This company cannot entertain any proposition on the part of the husband to change the interest in a wife's policy while said policy is in force in her favor.

3d.—The company does not agree to restore a policy after lapse for non-payment of premiums; and when, in special cases, policies are restored, satisfactory evidence of the insurable condition of the party must be given.

4th.—No policy-holder must expect to be notified when his premium will be due. It is the practice of the company to send these notices, as reminders, when the address is known, but no responsibility is assumed on the part of the company in consequence of their non-reception.

5th.—It is absolutely necessary, in making inquiries, to state the number of the policy as well as the name of the assured; much annoyance and time to both inquirer and the company will be avoided by observing this suggestion.

6th.—The fact that a policy has a large amount of additions to its credit gives no authority to the company to apply them to the payment of premiums, without written directions from the party interested.

AN ACT to amend an act entitled "An act to amend an act entitled 'An act to amend an act entitled "An act for the benefit of married women in insuring the lives of their husbands," passed April fourteenth, eighteen hundred and fifty-eight,' passed April eighteenth, eighteen hundred and seventy," passed June 23, 1873, three-fifths being present.

The people of the State of New York, represented in senate and assembly, do enact as follows:

§ 1. The second section of the act entitled "An act to amend an act entitled 'An act to amend an act entitled "An act for the benefit of married women in insuring the lives of their husbands," passed April fourteenth, eighteen hundred and fifty-eight,' passed April eighteenth, eighteen hundred and seventy," is hereby amended so as to read as follows:

§ 2. Any policy in favor of a married woman, or of her and her children, or assigned in her, or in her and their favor, on written request of said married woman, duly acknowledged before a commissioner of deeds, or other officer authorized to take acknowledgments of deeds in the same manner as required by law, to pass her dower right in lands of her husband, and on the written request of the policy-holder, may be surrendered to and purchased by the company issuing the same in the same manner as any other policy. And such married woman may, in case she have no child or children born of her body, or any issue of any child or children born of her body, dispose of such policy in and by a last will and testament, or any instrument in the nature of a last will and testament, or by deed duly executed and acknowledged before an officer authorized to take acknowledgments of deeds, in the same manner as required by law to pass her dower right in lands of her husband, which disposition lawfully made shall invest the person or persons to whom such policy shall have been so bequeathed, or granted and conveyed, with the same rights in respect thereto as such married woman would have had in case she survived the person on whose life such policy was issued, and such legatee or grantee shall have the same right to dispose of such policy as herein conferred on such married woman.

§ 3. This act shall take effect immediately.

THE MUTUAL LIFE-INSURANCE COMPANY OF NEW YORK.

Quarterly premiums for an insurance of $1,000.

1. Life-policies, payable at death only.				2. Endowment assurance policies, payable as indicated, or at death, if prior.							3. Quarterly premiums for 10 years, to secure an endowment assurance of $1,000, payable as follows, with full participation in the surplus of the company.						
Age.	Quarterly payments for life.	Quarterly paym'ts for 10 y'rs.	Quarterly paym'ts for 5 y'rs.	Age.	In 5 years.	In 15 years.	In 20 years.	In 25 years.	In 30 years.	In 35 years.	Age.	In 10 years.	In 15 years.	In 20 years.	In 25 years.	In 30 years.	In 35 years.
25	5 28	11 28	19 58	25	58 29	17 50	12 64	9 85	8 11	6 98	25	27 54	23 30	19 98	17 40	15 41	13 92
26	5 41	11 50	19 94	26	58 32	17 53	12 68	9 90	8 16	7 04	26	27 57	23 33	20 02	17 45	15 48	14 00
27	5 55	11 72	20 32	27	58 35	17 57	12 72	9 95	8 22	7 11	27	27 60	23 37	20 06	17 50	15 55	14 09
28	5 70	11 95	20 72	28	58 38	17 61	12 76	10 00	8 28	7 18	28	27 64	23 41	20 11	17 56	15 62	14 19
29	5 85	12 20	21 13	29	58 41	17 65	12 80	10 06	8 35	7 27	29	27 67	23 45	20 16	17 62	15 70	14 30
30	6 01	12 45	21 56	30	58 44	17 70	12 86	10 12	8 42	7 36	30	27 71	23 50	20 22	17 69	15 80	14 42
31	6 19	12 72	22 01	31	58 48	17 75	12 92	10 18	8 50	7 45	31	27 76	23 55	20 28	17 77	15 90	14 55
32	6 37	12 99	22 47	32	58 52	17 80	12 98	10 25	8 59	7 56	32	27 80	23 60	20 34	17 85	16 00	14 69
33	6 57	13 28	22 95	33	58 57	17 85	13 05	10 33	8 69	7 68	33	27 85	23 66	20 41	17 94	16 12	14 85
34	6 77	13 58	23 46	34	58 62	17 91	13 12	10 42	8 80	7 81	34	27 90	23 72	20 49	18 04	16 25	15 02

35	6 99	13 89	23 98	35	58 67	17 98	13 20	10 52	8 91	7 95	35	27 96	23 79	20 57	18 15	16 40	15 20
36	7 22	14 22	24 52	36	58 72	18 05	13 28	10 62	9 04	8 10	36	28 02	23 86	20 66	18 27	16 55	15 40
37	7 47	14 55	25 09	37	58 77	18 13	13 37	10 73	9 18	8 27	37	28 09	23 93	20 76	18 40	16 72	15 62
38	7 73	14 90	25 68	38	58 83	18 22	13 47	10 86	9 33	8 46	38	28 16	24 02	20 86	18 54	16 91	15 86
39	8 00	15 28	26 29	39	58 90	18 32	13 59	11 00	9 50	8 67	39	28 24	24 11	20 98	18 70	17 12	16 12
40	8 29	15 66	26 92	40	58 97	18 42	13 72	11 15	9 70	8 89	40	28 33	24 21	21 11	18 87	17 35	16 40
41	8 60	16 06	27 58	41	59 05	18 53	13 86	11 33	9 91	.....	41	28 43	24 33	21 26	19 06	17 59	.....
42	8 94	16 48	28 27	42	59 14	18 66	14 02	11 52	10 14	.....	42	28 53	24 45	21 42	19 27	17 86	.....
43	9 29	16 92	28 98	43	59 23	18 80	14 19	11 73	10 39	.....	43	28 64	24 59	21 60	19 50	18 15	.....
44	9 66	17 38	29 72	44	59 33	18 95	14 38	11 96	10 66	.....	44	28 76	24 74	21 79	19 75	18 47	.....
45	10 06	17 86	30 48	45	59 44	19 12	14 59	12 22	10 94	.....	45	28 90	24 90	22 00	20 02	18 82	.....
46	10 49	18 36	31 28	46	59 56	19 31	14 82	12 50	.....	.....	46	29 06	25 09	22 24	20 34	.....	.....
47	10 95	18 88	32 10	47	59 69	19 52	15 08	12 80	.....	.....	47	29 23	25 30	22 50	20 67	.....	.....
48	11 43	19 43	32 96	48	59 84	19 75	15 36	13 15	.....	.....	48	29 42	25 53	22 80	21 04	.....	.....
49	11 95	20 00	33 85	49	60 00	20 01	15 68	13 52	.....	.....	49	29 63	25 78	23 12	21 44	.....	.....
50	12 50	20 61	34 77	50	60 18	20 30	16 02	13 98	.....	.....	50	29 86	26 06	23 46	21 91	.....	.....
51	13 10	21 24	35 72	51	60 39	20 61	16 40	.....	.....	.....	51	30 12	26 36	23 85	.....	.....	.....
52	13 72	21 90	36 70	52	60 61	20 95	16 82	.....	.....	.....	52	30 40	26 70	24 27	.....	.....	.....
53	14 39	22 58	37 72	53	60 85	21 34	17 29	.....	.....	.....	53	30 70	27 07	24 73	.....	.....	.....
54	15 11	23 30	38 77	54	61 10	21 75	17 80	.....	.....	.....	54	31 04	27 48	25 22	.....	.....	.....
55	15 88	24 06	39 85	55	61 40	22 22	18 35	.....	.....	.....	55	31 41	27 92	25 77	.....	.....	.....
56	16 70	24 85	40 97	56	61 72	22 72	.....	.....	.....	.....	56	31 82	28 40	.....	.....	.....	.....
57	17 57	25 68	42 12	57	62 06	23 28	.....	.....	.....	.....	57	32 27	28 94	.....	.....	.....	.....
58	18 50	26 55	43 31	58	62 44	23 89	.....	.....	.....	.....	58	32 77	29 53	.....	.....	.....	.....
59	19 50	27 47	44 54	59	62 86	24 56	.....	.....	.....	.....	59	33 31	30 16	.....	.....	.....	.....
60	20 57	28 45	45 81	60	63 31	25 31	.....	.....	.....	.....	60	33 91	30 87	.....	.....	.....	.....
61	21 72	29 48	47 12	61	63 82	.....	.....	.....	.....	.....	61	34 57	.....	.....	.....	.....	.....
62	22 94	30 56	48 48	62	64 36	.....	.....	.....	.....	.....	62	35 30	.....	.....	.....	.....	.....
63	24 26	31 71	49 89	63	64 97	.....	.....	.....	.....	.....	63	36 10	.....	.....	.....	.....	.....
64	25 67	32 94	51 35	64	65 62	.....	.....	.....	.....	.....	64	36 97	.....	.....	.....	.....	.....
65	27 18	34 24	52 86	65	66 35	.....	.....	.....	.....	.....	65	37 94	.....	.....	.....	.....	.....

N. B.—The company will issue policies on a single life to the extent of $30,000, but, as in all other cases, only where the physical condition and family history of the applicant are entirely unexceptionable.

Established Feb. 1st, 1843.

The Mutual Life-Insurance Co. of New York offers the following peculiar advantages to persons intending to insure their lives:

The assets are larger than those of any other life-insurance company in the United States, amounting to sixty-five millions of dollars, and are exclusively cash.

The dividends have been larger in amount and in proportion to premiums paid than ever declared by any other company.

The business of this company is conducted on the mutual principle, in the strictest sense of the term; the entire surplus, deducting necessary expenses alone, being equitably divided among the assured.

The rates of premium are lower than those of the majority of other life-insurance companies, yet the dividends have been greater; the result of a very low rate of mortality among the insured, consequent on a most careful and judicious selection of lives, and a favorable rate of interest.

The mortality among its members has been proportionably less than that of any other life-insurance company in either America or Europe, whose experience has been made known—a result in the highest degree favorable to our policy-holders.

The amount insured in this company exceeds that of any other life-insurance company in the United States, thus affording greater security, the necessary law of average having more scope for operation.

The assets of the company are all cash; and being invested exclusively in bonds and mortgages on real estate (worth in each case at least double the amount loaned) and in United States and New York State stocks, the solidity and security of the company must be conceded.

Dividends annually, commencing the first year, and available either to increase the amount insured or in cash to reduce the premiums.

AN ACT for the benefit of married women in insuring the lives of their husbands, passed April 14, 1858, as amended March 28, 1862, and April 18, 1870.

The people of the State of New York, represented in senate and assembly, do enact as follows:

§ 1. It shall be lawful for any married woman, by herself, and in her name, or in the name of any third person, with his assent, as her trustee, to cause to be insured, for her sole use, the life of her husband for any definite period, or for the term of his natural life; and in case of her surviving such period or term, the sum or net amount of the insurance becoming due and payable by the terms of the insurance, shall be payable to her, to and for her own use, free from the claims of the representatives of the husband, or of any of his creditors, or any party or parties claiming by, through, or under him. But when the premium paid in any year out of the property or funds of the husband shall exceed five hundred dollars, such exemption from such claims shall not apply to so much of said premium so paid as shall be in excess of five hundred dollars, but such excess, with the interest thereon, shall inure to the benefit of his creditors.

§ 2. The amount of the insurance may be made payable, in case of the death of the wife before the period at which it becomes due, to her husband, or to his, her, or their children, for their use, as shall be provided in the policy of insurance, and to their guardian, if under age.

Do not write here.	Name of person assured. $10,000. Monroe Snyder.

Application to the Mutual Life-Insurance Company of New York, 144 & 146 Broadway.

No. of policy, 134,633.
Kind of " , life, due 18 .
Date of " , 20 day of Sept., 1872.
Am't of " , $10,000.
Age of party, 53 years.

------year------ann'l premium	$543 10
----------% extra "	$
Policy-fee	$
	$543 10

The above blank spaces are to be filled up only at the New York office.

VANUXEM, BATES & LAMBERT.

H. Anstice & Co., stationers, 23 Nassau street, New York.

(Written across in red ink:) Copy.

[Cut.]

Office of the company.

BOARD OF TRUSTEES.

Frederick S. Winston,
John V. L. Pruyn,
Robert H. McCurdy,
Isaac Green Pearson,
William Betts,
John Wadsworth,
Samuel M. Cornell,
Samuel E. Sproulls,
Lucius Robinson,

Richard Patrick,
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OLIVER H. PALMER, *Solicitor.*

ISAAC L. KIP, M. D.,
GUSTAVUS S. WINSTON, M. D., } *Medical Examiners.*

☞ Note carefully the name of this company, the Mutual Life-Insurance Company of New York, that it may not be confounded with others somewhat similar.

103 No. 132742.

THE MUTUAL LIFE-INSURANCE COMPANY OF NEW YORK,

Engraving. Engraving.

Annual premium, $517.80. Age, 52 years.] [Amount, $10,000.

In consideration of the representations made to them in the application for this policy, and of the sum of five hundred and seventeen dollars and eighty cents, to them duly paid by Lewis W. Snyder, son of Monroe Snyder, and of the annual payment of a like amount on or before the eleventh day of July in every year during the continuance of this policy, do insure the life of the said Monroe Snyder, of Bethlehem, in the county of Northampton, State of Pennsylvania, in the amount of ten thousand dollars, for the term of his natural life.

And the said company do hereby promise and agree to pay the amount of the said insurance, at their office in the city of New York, to the said assured, his executors, administrators, or assigns, in sixty days after due notice and proof of the death of the said person whose life is hereby insured, the balance of the year's premium, if any, being first deducted therefrom.

This policy is issued, and accepted by the assured, upon the following express conditions and agreements:

1st. If the said person whose life is hereby insured shall pass or remain beyond the settled limits or the protection of the Government of the United States, (excepting into the settled limits of the British Provinces;) or north of the 50th degree of north latitude; or between the 1st of July and the 1st of November, south of the parallel of 36° 30′ of north latitude, (except between the parallels 36° 30′ and 32° of north latitude, east of the Tennessee River and the westerly line of the State of Alabama, and not less than one hundred miles west of the Atlantic coast of the United States;) or shall enter upon a voyage upon the high seas; or shall be personally engaged in blasting, mining, submarine operations, or the production of highly inflammable or explosive substances; or in working or managing a steam-engine in any capacity; or as a mariner, engineer, fireman, conductor, or laborer in any capacity upon service on any sea, sound, inlet, river, lake, or railroad; or enter any military or naval service whatsoever, (excepting into the militia when not in actual service,) without the consent of this company, in each or either of the foregoing cases, previously given in writing; or if he shall die by his own act or hand, whether sane or insane, or in or in consequence of a duel, or of the violation of the laws of any nation, State, or province; or if he shall aid or abet any insurrection against the United States, or perform any labor or service, civil or military, in aid of such insurrection; or, if any of the statements or declarations made in the application for this policy, upon the faith of which this policy is issued, shall be found in any respect untrue, then and in every such case this policy shall be null and void.

2d. This company does not assume the risk of death from hostile Indians.

3d. If the said premiums shall not be paid on or before the days above mentioned for the payment thereof, at the office of the company in the city of New York, (unless otherwise expressly agreed in writing,) or to agents when they produce receipts signed by the president or secretary, then, in every such case, the said company shall not be liable

for the payment of the sum assured, or any part thereof, and this policy shall cease and determine.

4th. In every case when this policy shall cease and determine, or become or be null and void, all payments thereon shall be forfeited to this company, except that in case of the death of the insured by his own act or hand, the company will return the premiums paid.

5th. If this policy should be assigned or held as security, written notice shall be given to this company, and due proof of interest produced, with the proofs of death.

In witness whereof the said The Mutual Life-Insurance Company of New York have, by their president and secretary, signed and delivered this contract this eleventh day of July, one thousand eight hundred and seventy-two.

RICHARD W. McCURDY,
Vice-President.

FR. SCHROEDER,
As't Secretary.

[Agents of the company are not authorized to make, alter, or discharge contracts or waive forfeitures.]

104 No. 134633.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK,

Engraving. Engraving.

Annual premiums, $543.10. Age, 53 years.] [Amount, $10,000.

In consideration of the representations made to them in the application for this policy, and of the sum of five hundred and forty-three dollars and ten cents, to them duly paid by Lewis W. Snyder, son of Monroe Snyder, and of the annual payment of a like amount on or before the twentieth day of September in every year during the continuance of this policy, do insure the life of the said Monroe Snyder, of Bethlehem, in the county of Northampton, State of Pennsylvania, in the amount of ten thousand dollars, for the term of his natural life.

And the said company do hereby promise and agree to pay the amount of the said insurance, at their office in the city of New York, to the said assured, his executors, administrators, or assigns, in sixty days after due notice and proof of the death of the said person whose life is hereby insured, the balance of the year's premium, if any, being first deducted therefrom.

This policy is issued, and accepted by the assured, upon the following express conditions and agreements:

1st. If the said person whose life is hereby insured shall pass or remain beyond the settled limits or the protection of the Government of the United States, (excepting into the settled limits of the British Provinces;) or north of the 50th degree of north latitude; or, between the 1st of July and the 1st of November, south of the parallel of 36° 30′ of north latitude, (except between the parallels 36° 30′ and 32° of north latitude, east of the Tennessee River and the westerly line of the State of Alabama, and not less than one hundred miles west of the Atlantic coast of the United States;) or shall enter upon a voyage upon the high seas; or shall be personally engaged in blasting, mining, submarine operations, or the production of highly inflammable or ex-

plosive substances; or in working or managing a steam-engine in any capacity; or as a mariner, engineer, fireman, conductor, or laborer in any capacity upon service on any sea, sound, inlet, river, lake, or railroad; or enter any military or naval service whatsoever, (excepting into the militia when not in actual service,) without the consent of this company, in each or either of the foregoing cases, previously given in writing; or if he shall die by his own act or hand, whether sane or insane, or in or in consequence of a duel, or of the violation of the laws of any nation, State, or province; or if he shall aid or abet any insurrection against the United States, or perform any labor or service, civil or military, in aid of such insurrection; or, if any of the statements or declarations made in the application for this policy, upon the faith of which this policy is issued, shall be found in any respect untrue, then and in every such case this policy shall be null and void.

2d. This company does not assume the risk of death from hostile Indians.

3d. If the said premiums shall not be paid on or before the days above mentioned for the payment thereof, at the office of the company in the city of New York, (unless otherwise expressly agreed in writing,) or to agents when they produce receipts signed by the president, or secretary, then, in every such case, the said company shall not be liable for the payment of the sum assured, or any part thereof, and this policy shall cease and determine.

4th. In every case when this policy shall cease and determine, or become or be null and void, all payments thereon shall be forfeited to this company, except that in case of the death of the insured by his own act or hand, the company will return the premiums paid.

5th. If this policy should be assigned or held as security, written notice shall be given to this company, and due proof of interest produced, with the proofs of death.

In witness whereof the said The Mutual Life-Insurance Company of New York have, by their president and secretary, signed and delivered this contract this twentieth day of September, one thousand eight hundred and seventy-two.

F. S. WINSTON,
President.

JNO. M. STUART,
Secretary.

Agents of the company are not authorized to make, alter, or discharge contracts or waive forfeitures.

105 The defendant also called and examined the following witnesses:

NEWBERRY A. FULMER sworn and examined for defendant:

I am train-despatcher for the Lehigh Valley Railroad Co., at Bethlehem. I have been employed there nine years. I was there in 1867. I remember Mr. Snyder's fall in 1867. It was in the winter of 1867. I did not see him fall. I saw him a very short time afterwards, before he was picked up. I could see where he was unloading slate from a wagon to a car. It was a four-horse wagon. The fall occurred about 12 o'clock noon. He was on the car when I last saw him previous to the fall. The men who were employed by him, after he had fallen, called to me. I at once ran towards where the wagon was. When I arrived there
106 Mr. Snyder lay senseless on the ground. I helped to raise him to a sitting position. I then requested the men who were there to carry him to my office. There was a plank laid from the wagon to the

car to walk on to carry slate from the wagon to the car, and the men there did not know whether he had made a misstep and stepped off the side of the plank or the plank had tilted. They didn't know whether he struck his head against the car or the wagon. I found him lying on the ground between the car and the wagon, not more than a foot from the track, and about one foot from the hub of the wagon. He lay between the car and the wagon, which were two feet apart. I saw where he was hurt. After we raised him, we examined him and found a bump on the head; the bruise was not open; the head was not cut, but there was a swelling on it. I think it was on top of the head. I requested the men to carry him to my office. They took him to my office. I then left and did
107 not see him until about 10 minutes afterwards, when I saw him in my office. He was in a manner coming to then. When we first found him his eyes were closed; when I saw him the second time in my office his eyes were open as though he recognized those around him, though he did not speak. I was again obliged to leave, and when I returned, it may have been 20 minutes after the fall, they were carrying him from my office to a wagon to take him home. They took him to a carriage brought there by his son. Immediately after the fall we sent to town for his son and Dr. Stout, and they were there in a very short time. The last I saw of him he was seated in the carriage ready to be taken home. His son Lewis was with him. I didn't hear him say anything. Don't remember whether he was leaning against his son. He was sitting in the carriage; his son was driving. The men employed there lifted him into the carriage. When I saw the carriage leave it may have been half an hour from the time he had fallen; can't say
108 exactly. Dr. Stout lives across the river in Old Bethlehem. Don't remember when I saw him out again after the fall. It wasn't a great while. Couldn't say whether it was a week, 10 days, or two weeks.

Cross-examined:

His eyes were open and he was sitting up when in the carriage. It was a one-seated buggy.

(To Judge Cadwallader. Don't know whether he was leaning against his son or not; he may have been for all I know. I cannot remember now.)

I don't remember whether he walked or was carried from my office to the wagon. I understood Dr. Stout was there, though I didn't see him. I don't recollect seeing the doctor in the carriage. I sent for the doctor; he is the railroad company's physician. We always send for him when anything occurs on the railroad.

109 Dr. ABRAM STOUT sworn and examined for defendants:

I live in Bethlehem and practise my profession there. I have done so since 1857. I attended Monroe Snyder in consequence of his fall in 1867. It was on the 9th of December, 1867. I found him in one of the rooms of a building belonging to the Lehigh Valley Railroad Co., lying on a settee, apparently recovering, from what I heard of the injury, from concussion of the brain. He had his eyes open and was just looking around. I am under the impression that he did not talk any at that time. I examined his head carefully and found a contusion on the top of his head, front part; there was a swelling and contusion there. Somebody had been applying something—I think it was arnica—to it, and I think they had given him whiskey. Shortly after I had examined him I was asked whether they could take him home. I agreed that he should be taken home immediately, which

110 was done. I went up immediately afterwards and prescribed for him at his house. I arrived at his house probably half an hour afterwards or sooner. I paid him six visits altogether. The last time I merely took my bill. The first two were on the 9th; the last was on the 14th of December. I met him very frequently on the street after he was out. The first time I met him I asked him how he felt. He said pretty good, only he felt a little giddy, a little giddy in his head, as he called it. He said his head did not feel right, or something to that effect. I thought I noticed he walked rather slower when I met him after this accident, but I may be mistaken in this. I think his face was always closely shaven.

Cross-examined:

I was the regular physician of the Lehigh Valley Railroad Co. They sent for me on this occasion. I prescribed simple remedies and watched the symptoms. My object was to watch whether anything turned up and give him simple remedies in the mean time. After a few days had passed over nothing turned up, and I thought it a
111 trifling injury. After I had observed its effects I considered it trifling. I was afterwards and am now examining surgeon of the New York Mutual Life Ins. Co., and was in 1872.

Q. When you examined Monroe Snyder, did you think it worth while to mention this injury in your certificate?

Ans. I did not think of it, to be frank with you, when I made out the applications.

(Application of July 9th, 1872, shown witness and question No. 13 of medical examiner's certificate read to witness.) As I read those questions to him he answered no. If I had thought of this injury I don't think I should have put it down as a serious injury. I went to see him the day after this accident happened, and found him lying on the sofa. I am not positive whether he sat up the first or second day. He did a day or two afterwards. I am not positive whether he wanted to go out. I told him there was apparently nothing wrong, but he had better keep quiet a couple of days. I gave him nothing but cooling
112 remedies. I may have given him a purgative, if that was necessary. I don't think I did. I don't remember whether a Sunday intervened on which I did not visit him.

Re-examined:

I very likely gave him nitre and felt his pulse. He told me when I examined him not to mention that he had his life insured, as I am frequently requested by different parties.

113 The plaintiff also called and examined the following witness:

WILLIAM CHAPMAN sworn and examined for the plaintiff:

I live at Bethlehem now. I am president of the Chapman Slate Company. I knew Monroe Snyder. I knew him intimately since 1866. He was employed about June, 1866, and continued in our employ until December, 1870. He sold slate and made collections sometimes. His principal duty was to take charge of slate sent to Bethlehem by teams, and to ship it in cars. I did not send him far off to make collections. He was a prompt and accurate business man. I heard of his getting a fall while in our employ. I was living at the quarry at Chapman Borough at the time. He was not docked of any time. He lost but little time. Up to the time he left our employ he continued to attend to his business as before. Couldn't notice that his health was affected at all by it.

Cross-examined:

114 He was paid a monthly salary. I think on one occasion he asked my advice about some slate stock. My advice was to sell.

Re-examined:

I think I persuaded him to sell his slate stock. He had Chapman slate stock.

115 And the defendant presented to the court certain points, on which the following instructions respectively to the jury were requested, to wit:

First. The written applications made by the insured, dated, respectively, September 18th, 1872, July 9th, 1872, and January 10th, 1873, constitute the basis of the contract of insurance; and Monroe Snyder having, in answer to that part of question No. 13 in each, which asks, "Have you ever had a disease of any other vital part," answered, "Small-pox," or "Small-pox thirty years since, none of rest;" while the testimony is uncontradicted that Monroe Snyder had a severe fall upon his head on the ninth day of December, 1867, the answer to this part of question No. 13 in the application for each of the policies sued on is untrue, and the plaintiff cannot recover on said policies.

116 Second. The written applications for the policies signed by Monroe Snyder, the insured, on July 9th, 1872, September 18th, 1872, and January 10th, 1873, form the basis of the contract of insurance; and Monroe Snyder having, in answer to question 14 (A) in the application for each policy sued on, which is, "Have you ever had any serious illness, local disease, or personal injury; if so, of what nature?" answered, "Small-pox," or "Small-pox thirty years since;" while the testimony is uncontradicted that, on the ninth day of December, 1867, Monroe Snyder, the insured, had a severe concussion of the brain, the answers of Monroe Snyder to the said question are untrue, and the plaintiff is not entitled to recover on any of the policies sued upon.

Third. A severe fall, by which the head is struck and resulting in concussion of the brain, is a severe personal injury within the meaning of the term used in the several applications signed by the insured.

117 Fourth. The written applications bearing dates September 18th, 1872, July 9th, 1872, and January 10th, 1873, signed by the insured, form the basis of the contract of insurance, and the policies were issued to and accepted by the insured upon the express condition and agreement that if any of the statements or declarations made in the application should be found in any respect untrue, then the policies should respectively be null and void. And Monroe Snyder, the insured, having, in answer to question No. 17 in each of said policies, which is, "How long since you were attended by a physician? For what diseases? Give name and residence of such physician;" answered, "Not for twenty years;" while the testimony is unimpeached and uncontradicted that Monroe Snyder was, in the month of December, 1867, attended several times by Dr. Abram Stout, a physician, for a severe fall upon his head, this answer is untrue, and the policies are thereby
118 rendered void, and the plaintiffs cannot recover upon them.

And the court, in answer to the said points respectively, charged the jury as follows:

To the first: If the jury find that the fall on the head was a severe one, or that it injuriously affected any vital part, the verdict should be for the defendants.

To the second point: If the jury find that the concussion of the brain was a severe one, the verdict should be for the defendants.

To the third point: If the jury find that the fall by which the head was struck was a severe one, resulting in concussion of the brain, it was a severe personal injury within the meaning of the term used in the several applications.

To the fourth point: If the fall upon the head, for which Monroe Snyder was attended by the physician, was a severe one, the answer was untrue, and the verdict should be for the defendants. So, if
119 the jury find that the attendance of the physician was for any disease or injury within the meaning of the question, the verdict should be for the defendants.

And thereupon the counsel of the defendants did then and there except to the said charge and opinion of the court in answer to the fourth point, and inasmuch as the said charge and opinion so excepted to do not appear upon the record, the said counsel for the said defendant did then and there tender this bill of exceptions to the opinion of the said court, and requested the seal of the judge aforesaid should be put to the same, according to the form of the statute in such case made and provided. And thereupon the aforesaid judge, at the request of the said counsel for the defendant, did put his seal to this bill of exceptions, pursuant to the aforesaid statute in such case made and provided, this seventh day of May, A. D. 1874.

JOHN CADWALADER. [L. S.]

120 And afterwards, to wit, on the 14th day of September, A. D. 1874, the defendants, by their attorneys, file the following specifications of error, to wit:

THE MUTUAL LIFE-INSURANCE COMPANY of New York, plaintiff in error,
vs.
LEWIS W. SNYDER, DEFENDANT IN ERROR. } No. 32.

Writ of error to the circuit court of the United States for the eastern district of Pennsylvania, of October sessions, 1873.

Specifications of error.

1. The learned judge who tried the cause erred in his answer to the fourth point submitted to him by the plaintiff in error, which point was as follows:

"Fourth. The written applications bearing dates September 18th, 1872, July 9th, 1872, and January 10th, 1873, signed by the insured, form the basis of the contract of insurance, and the policies were issued to and accepted by the insured upon the express condition and agreement that if any of the statements or declarations made in the application should be found in any respect untrue, then the policies should respectively be null and void; and Monroe Snyder, the insured, having, in answer to question No. 17 in each of said policies, which is, "How long since you were attended by a physician; for what diseases? Give name and residence of such physician?" answered, "Not for twenty years," while the testimony is unimpeached and uncontradicted
121 that Monroe Snyder was, in the month of December, 1867, attended several times by Dr. Abram Stout, a physician, for a severe fall upon his head; this answer is untrue, and the policies are thereby rendered void, and the plaintiffs cannot recover upon them."

And the answer of the learned judge thereto was as follows:

"If the fall upon the head for which Monroe Snyder was attended by a physician was a severe one, the answer was untrue, and the verdict should be for the defendants. So, if the jury find that the attendance of the physician was for any disease or injury within the meaning of the question, the verdict should be for the defendants."

2. In qualifying his answer to the said fourth point thus: "If the fall upon the head for which Monroe Snyder was attended by the physician was a severe one, the answer was untrue, and the verdict should be for the defendants."

3. In charging the jury, in answer to the said fourth point, in a manner which tended to mislead and confuse the minds of the jurors, by the use of the following language, viz: "So, if the jury find that the at-
122 tendance of the physician was for any disease or injury within the meaning of the question, the verdict should be for the defendants."

4. In not answering the said fourth point simply and plainly in the affirmative.

For which reasons the defendants below and plaintiffs in error pray that the judgment entered in the said cause by the said circuit court of the United States for the eastern district of Pennsylvania may be reversed and set aside by the Supreme Court of the United States, and a venire facias de novo be awarded.

WM. A. PORTER,
GEORGE W. BIDDLE,
Per A. S. B.,
Counsel for the Mutual Life-Ins. Co. of New York, Plaintiff in Error, and Defendant in the said Circuit Court of the U. S.

SEPTEMBER 14, 1874.

123 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the circuit court of the United States for the eastern district of Pennsylvania, in the third circuit, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you or some of you, between Lewis W. Snyder, a citizen of the State of Pennsylvania, plaintiff, and The Mutual Life-Insurance Company of New York, a corporation created by and established under the laws of the State of New York, defendants, a manifest error hath happened, to the great damage of the said The Mutual Life-Insurance Company of New York, as by their complaint appears: We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable Morrison R. Waite, Chief-Justice of the Supreme Court of the said United States, at Philadelphia, this eleventh day of May, in the year of our Lord one thousand eight hundred and

seventy-four, and in the ninety-eighth year of the Independence of the said United States.

[SEAL.]

SAMUEL BELL,
Clerk C. C. U. S., E. D. Pa.,
Per W. GRIER HIBLER.

Allowed by

W. STRONG,
Asso. Jus. S. C. U. S.

124 (Indorsed:) The Mutual Life-Insurance Company of New York, plaintiffs in error, vs. Lewis W. Snyder, defendant in error. Writ of error.

125 UNITED STATES OF AMERICA,
Eastern District of Pennsylvania, sct:

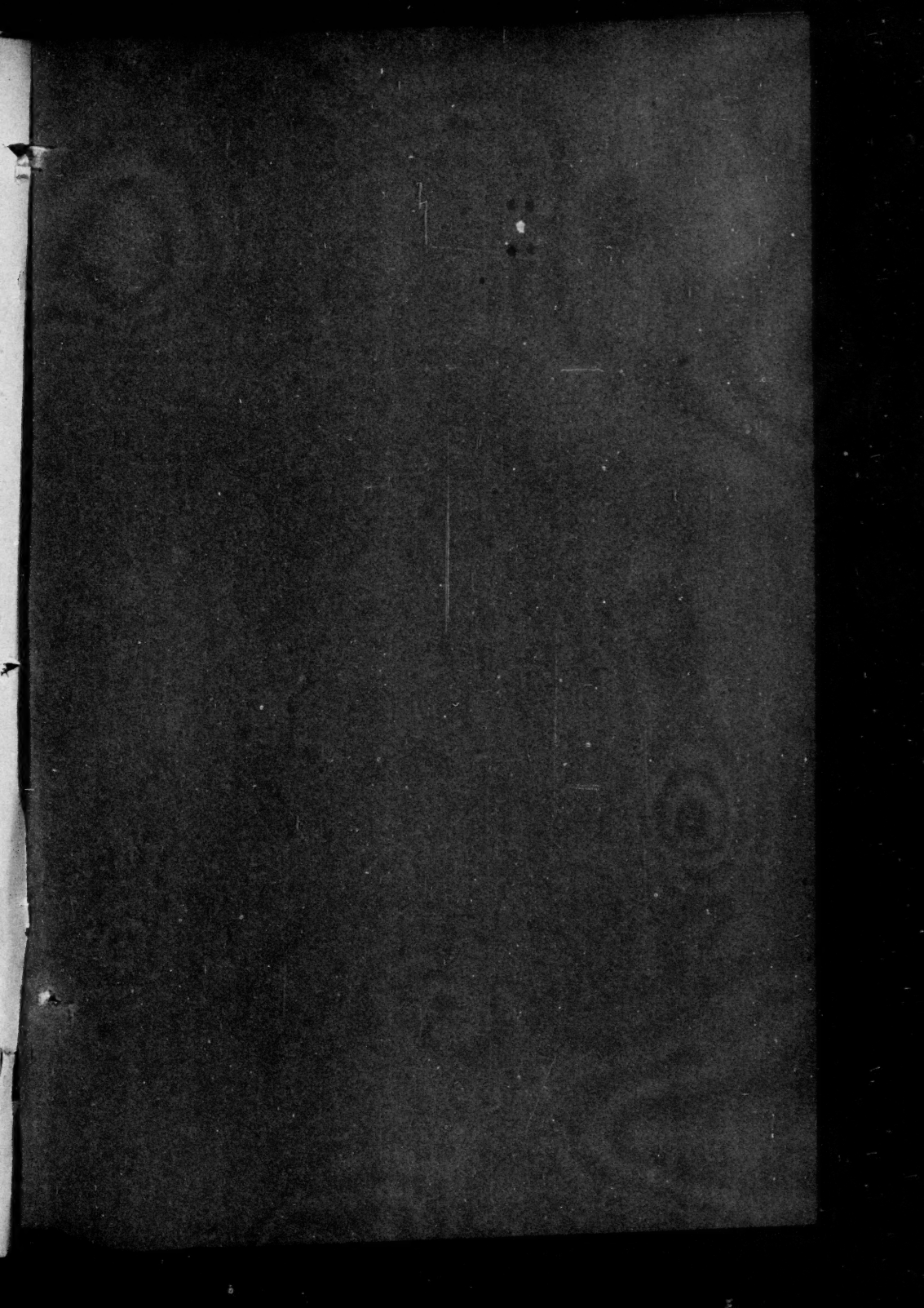
I, Samuel Bell, clerk, do hereby certify the foregoing to be a true and faithful copy of the record and proceedings of the circuit court of the United States in and for the eastern district of Pennsylvania, in the third circuit, in a certain suit therein lately depending between Lewis W. Snyder, plaintiff, and the Mutual Life-Insurance Company of New York, defendants.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said circuit court, at Philadelphia, this thirtieth day of September, A. D. 1874, and in the ninety-ninth year of the Independence of the United States.

[SEAL.]

SAMUEL BELL,
Clerk Circuit Court U. S., E. D. of Pa.

(Indorsement on cover:) No. 289. The Mutual Life-Insurance Company of New York, plaintiff in error, vs. Lewis W. Snyder. E. Pennsylvania C. C. U. S. Filed 6th October, 1874.



In the Supreme Court of the United States.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK,
A Corporation created and established by the Laws of the State of New York,
PLAINTIFF IN ERROR,
vs.
ANNA M. SNYDER,
A citizen of Pennsylvania,
DEFENDANT IN ERROR.

October Sessions
1875,
No. 288.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK,
A Corporation created and established by the Laws of the State of New York,
PLAINTIFF IN ERROR.
vs.
LEWIS W. SNYDER,
A citizen of Pennsylvania,
DEFENDANT IN ERROR.

October Sessions
1875.
No. 289.

BRIEF OF THE PLAINTIFFS IN ERROR.

WILLIAM A. PORTER,
GEORGE W. BIDDLE,
Counsel for the Plaintiffs in Error.

Chandler, Pr., 306 & 308 Chestnut St., Phila.

IN THE SUPREME COURT OF THE UNITED STATES.

Writ of Error to the Circuit Court of the United States, for the Eastern District of Pennsylvania.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK, a Corporation created and established by the laws of the State of New York, Plaintiff in Error.	October Sessions, 1875.
vs.	No. 288.
ANNA M. SNYDER, a Citizen of Pennsylvania, Defendant in Error.	
THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK, a Corporation created and established by the laws of the State of New York, Plaintiff in Error.	October Sessions, 1875.
vs.	No. 289.
LEWIS W. SNYDER, a Citizen of Pennsylvania, Defendant in Error.	

HISTORY OF THE CASES.

The first of these suits was brought in the Circuit Court of the United States for the Eastern District of Pennsylvania, by Anna M. Snyder, on a Policy of Insurance issued by the Mutual Life Insurance Company of New York, dated thirteenth January, 1873, for

IN THE SUPREME COURT OF THE UNITED STATES.

Writ of Error to the Circuit Court of the United States, for the Eastern District of Pennsylvania.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK, a Corporation created and established by the laws of the State of New York, Plaintiff in Error.	October Sessions, 1875.
vs.	No. 288.
ANNA M. SNYDER, a Citizen of Pennsylvania, Defendant in Error.	
THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK, a Corporation created and established by the laws of the State of New York, Plaintiff in Error.	October Sessions, 1875.
vs.	No. 289.
LEWIS W. SNYDER, a Citizen of Pennsylvania, Defendant in Error.	

HISTORY OF THE CASES.

The first of these suits was brought in the Circuit Court of the United States for the Eastern District of Pennsylvania, by Anna M. Snyder, on a Policy of Insurance issued by the Mutual Life Insurance Company of New York, dated thirteenth January, 1873, for

$10,000. The second suit was brought in the same Court by Lewis W. Snyder, on two policies of insurance, issued by the same Company for $10,000 each, dated respectively eleventh July, 1872, and twentieth September, 1872. The actions were in *assumpsit*. The insurances were on the life of Monroe Snyder, of Bethlehem, Penn'a, who was found dead in the Monocacy Creek, near Bethlehem, on the morning of the twenty-second of February, 1873. The questions involved in the cases being identical, they were by agreement of counsel tried together. In each of the policies it was recited that the same was issued by the Company "in consideration of "the representations made to them in the application "for this policy," as well as the payment of the premium. Each policy, after stating that—"This policy is issued "and accepted by the insured upon the following ex- "press conditions and agreements," contained among other conditions the following:—"If any of the state- "ments or declarations made in the application for this "policy, upon the faith of which this policy was issued "shall be found in any respect untrue, then, and in "every such case, this policy shall be null and void." (*Record in* 288, *page* 3. *Record in* 289, *pages* 3 *and* 4.)

In each of the applications for the respective insurances, signed by the insured, were the following provisions:

"19. It is hereby affirmed, declared and warranted by "the applicant above named, and also by the person "whose life is proposed for assurance, that the answers "to all of the above questions and to the questions "propounded to the 'friend' and physician of the

"party are true and correct, and that no intentional "omission, concealment or mental reservation has been "made of any material facts or circumstances relating "to the past or present health, habits, or condition, or "the family history of the above named Monroe Sny- "der." (*Record in* 288, *pages* 28 *and* 29. *Record in* 289, *pages* 37 *and* 38, 52 *and* 53.)

"And it is hereby expressly stipulated and agreed "that the above application and this declaration, shall "form the basis of the contract between the above "named persons, and the said, The Mutual Life Insur- "ance Company of New York, and that if any misrep- "resentation, or fraudulent and untrue answers have "been made, or if any facts which should have been "stated to the Company, have been suppressed therein," etc.; "that then, in either event, the said policy shall "become and be null and void, etc." (*Record in* 288, *page* 23. *Record in* 289, *pages* 32 *and* 47.)

Question No. 17, in each of the applications was: "How long since you were attended by a physician? "For what diseases? Give name and residence of such "physician?" To this the insured answered," not for "twenty years."

It was proven on the trial, that the insured, in the month of December, 1867, while unloading slate from a wagon to a car, fell from the top of the car to the ground, striking his head, in the fall, either against the wagon or the car. He was picked up in a senseless condition. Newberry A. Fulmer, the train despatcher of the Lehigh Valley Railroad, who arrived at the scene of the accident just after the insured had

fallen, testified as follows: (*Record in* 288, *page* 37. *Record in* 289, *page* 62.)

"When I arrived there, Mr. Snyder lay senseless on "the ground. I helped to raise him to a sitting posi- "tion. I then requested the men who were there to "carry him to my office. There was a plank laid from "the wagon to the car, to walk on to carry slate from "the wagon to the car, and the men there did not know "whether he had made a misstep and stepped off the "side of the plank, or the plank had tilted. They "didn't know whether he struck his head against the "car or the wagon. I found him lying on the ground "between the car and the wagon, not more than a foot "from the track, and about one foot from the hub of "the wagon. He lay between the car and the wagon, "which were two feet apart. I saw where he was hurt. "After we raised him, we examined him, and found a "bump on the head; the bruise was not open,—the "head was not cut but there was a swelling on it. I "think it was on the top of the head. I requested the "men to carry him to my office. They took him to my "office. I then left, and did not see him until about ten "minutes afterwards, when I saw him in my office. He "was, in a manner, coming to, then. When we first "found him, his eyes were closed—when I saw him the "second time, in my office, his eyes were open as though "he recognized those around him, though he did not "speak."

Dr. Abram Stout, *testified*: (*Record in* 288, *page* 38. *Record in* 289, *page* 63.) "I attended Monroe "Snyder in consequence of his fall in 1867. It was

"on the 9th of December, 1867. I found him in "one of the rooms of a building belonging to the "Lehigh Valley Railroad Co., lying on a settee, appa- "rently recovering, from what I heard of the injury, "from concussion of the brain. He had his eyes open "and was just looking around. I am under the im- "pression that he did not talk any at that time. I ex- "amined his head carefully and found a contusion on "the top of his head, front part,—there was a swelling "and contusion there. Somebody had been applying "something, I think it was arnica, to it, and I think they "had given him whiskey. Shortly after I had examined "him, I was asked whether they could take him home. "I agreed that he should be taken home immediately, "which was done. I went up immediately afterwards "and prescribed for him at his house. I arrived at his "house probably half an hour afterwards, or sooner. "I paid him six visits altogether. The last time I "merely took my bill. The first two were on the 9th, "the last was on the 14th of December. I met him "very frequently on the street after he was out. The "first time I met him, I asked him how he felt. He "said pretty good, only he felt a little giddy in his head, "as he called it; said his head did not feel right, or "something to that effect. Thought I noticed he walked "rather slower when I met him after this accident, but "I may be mistaken in this."

Among the points presented to the learned Judge, who tried the cases, on which he was requested to charge the jury, was the following: (*Record in* 288, *page* 40. *Record in* 289, *page* 65.)

Fourth.—The written applications bearing dates, September 18th, 1872; July 9th, 1872; and January 10th, 1873; signed by the insured, form the basis of the contract of insurance, and the policies were issued to and accepted by the insured upon the express condition and agreement, that if any of the statements or declarations made in the application should be found in any respect untrue, then the policies should respectively be null and void; and Monroe Snyder, the insured, having in answer to question No. 17, in each of said policies, which is, "How long since you were attended "by a physician? For what diseases? Give name and "residence of such physician," answered, "Not for "twenty years," while the testimony is unimpeached and uncontradicted that Monroe Snyder was, in the month of December, 1867, attended several times by Dr. Abram Stout, a physician, for a severe fall upon his head, this answer is untrue, and the policies are thereby rendered void and the plaintiffs cannot recover upon them.

The Court, in answer to this point, charged the jury as follows:—

"If the fall upon the head, for which Monroe Synder "was attended by the physician, was a severe one, the "answer was untrue, and the verdict should be for the "defendants. So, if the jury find that the attendance "of the physician was for any disease or injury within "the meaning of the question, the verdict should be "for the defendants."

This answer was excepted to by the defendants below and the exception forms the basis of the specifications of error.

POINTS

Presented to the Court on which the following instructions to the jury were requested:

First.—The written applications made by the insured dated respectively, September 18th, 1872; July 9th, 1872; and January 10th, 1873; constitute the basis of the contract of insurance, and Monroe Snyder having in answer to that part of question No. 13 in each, which asks, "Have you ever had a disease of any other "vital part?" Answered, "Small-pox," or "Small-pox "thirty years since, none of rest," while the testimony is uncontradicted that Monroe Snyder had a severe fall upon his head on the ninth day of December, 1867, the answer to this part of question No. 13, in the application for each of the policies sued on, is untrue, and the plaintiff cannot recover on said policies.

Second.—The written applications for the policies signed by Monroe Snyder, the insured, on July 9th, 1872; September 18th, 1872; and January 10th, 1873; form the basis of the contract of insurance, and Monroe Snyder having in answer to question 14 (A) in the application for each policy sued on, which is, "Have "you ever had any serious illness, local disease, or "personal injury, if so, of what nature?" answered, "Small-pox," or "Small-pox thirty years since," while the testimony is uncontradicted that on the ninth day of December, 1867, Monroe Snyder, the insured, had

a severe concussion of the brain, the answers of Monroe Snyder to the said question are untrue, and the plaintiff is not entitled to recover on any of the policies sued upon.

Third.—A severe fall by which the head is struck and resulting in concussion of the brain, is a severe personal injury within the meaning of the term used in the several applications signed by the insured.

Fourth.—The written applications bearing dates, September 18th, 1872; July 9th, 1872; and January 10th, 1873; signed by the insured, form the basis of the contract of insurance, and the policies were issued to, and accepted by, the insured upon the express condition and agreement, that if any of the statements or declarations made in the application should be found in any respect untrue, then the policies should respectively be null and void; and Monroe Snyder, the insured, having in answer to question No. 17, in each of said policies, which is, "How long since you were attended "by a physician? For what diseases? Give name and "residence of such physician," answered, "Not for "twenty years," while the testimony is unimpeached and uncontradicted that Monroe Snyder was, in the month of December, 1867, attended several times by Dr. Abram Stout, a physician, for a severe fall upon his head, this answer is untrue, and the policies are thereby rendered void and the plaintiffs cannot recover upon them.

ANSWERS OF THE COURT.

The Court in answer to the said points, respectively charged the jury as follows:—

To the First point.—If the jury find that the fall on the head was a severe one, or that it injuriously affected any vital part, the verdict should be for the defendants.

To the Second point.—If the jury find that the concussion of the brain was a severe one, the verdict should be for the defendants.

To the Third point.—If the jury find that the fall by which the head was struck, was a severe one resulting in concussion of the brain, it was a severe personal injury within the meaning of the term used in the several applications.

To the Fourth point.—If the fall upon the head, for which Monroe Snyder was attended by the physician, was a severe one, the answer was untrue and the verdict should be for the defendants. So if the jury find that the attendance of the physician was for any disease or injury within the meaning of the question, the verdict should be for the defendants.

And thereupon the counsel of the defendants did then and there except to the said charge and opinion of the Court in answer to the fourth point.

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BRIEF OF THE ARGUMENT.

FIRST AND SECOND SPECIFICATIONS OF ERROR.

The instruments executed by the parties in these cases are peculiarly strong and clear, binding the insured to the utmost care in his statements and declarations, and to the most careful and accurate disclosure of everything concerning the matters inquired of in the applications. The insured expressly "affirmed, "declared, and warranted," that the answers to all of the questions were true and correct, and, as a part of the consideration of the contract, "agreed that the "application in each case should form the basis of the "contract of insurance," and that if any of the statements or declarations made in the application should be found in any respect untrue "the policy should be "void." As the authorities hereinafter cited show, by this direct reference to the application in the policy, and by the clear and distinct provision contained in the former that it shall form the basis of the contract, it becomes as much a part of the contract as if inserted at length in the policy, and the statements and declarations contained in it are to be regarded as warranties. In *De Hahn* vs. *Hartley*, 1 Term Rep. 343, LORD CHIEF JUSTICE MANSFIELD said: "There is "a material distinction between a warranty and a repre-"sentation. A representation may be equitably and "substantially answered, but a warranty must be strictly "complied with." "A warranty in a policy of insur-

"ance is a condition or a contingency, and unless that "be performed, there is no contract. It is perfectly "immaterial for what purpose it is introduced; but "being inserted, the contract does not exist unless it "be literally complied with." In the same case, ASHHURST, J. said, "The very meaning of a warranty is to "preclude all question whether it has been substantially "complied with; it must be literally so."

The question propounded to the insured in the present cases, was not whether he had received a severe injury or any injury, but, "How long since he had been "attended by a physician?" The answer, "Not for "twenty years," was equally untrue, if within that time he had been attended by a physician for a severe or a slight injury. As was said by POLLOK, C. B., in *Cazenove* vs. *British Equitable Ins. Co.*, 5 Jurist. N. S., 1309; "In cases of this sort it is trifling to say "it is a true answer, if something else is to be added "to make it true." The charge of the learned Judge made the severity of the injury the test of the truth of the question. This was equivalent to leaving it to the jury to determine whether the matter inquired of, was material to the risk, for the severity of the injury could be considered only with reference to the risk. The Insurance Company had the right to be informed, in answer to their question, of the injury for which the insured was attended, and to judge for themselves of its severity and its materiality to the risk. No such question was open to be tried by the jury. The simple question of the truth or untruth of the statement, is that by which the validity of the contract is to be

determined. The parties had expressly agreed that all the matters inquired of were to be deemed material.

"When the representations are in writing, and the "parties, by the frame of the contents of the papers, "either by putting representations as to the history, "quality or relations of the subject insured into the "form of specific questions or by the mode of refer- "ring to them in the policy, settle for themselves that "they shall be deemed material, they are to be declared "so by the Court, and the insured cannot be permitted "to show that a fact which both parties have treated "as material is in fact immaterial. The inquiry shows "that the insurer considers the fact material, and an "answer by the insured affords a just inference that "he assents to the insurers view. The inquiry and "answer are tantamount to an agreement that the "matter inquired about is material, and its materiality "is not, therefore, open to be tried by the jury." *Campbell* vs. *The New England Mutual Life Ins. Co.*, 98 Mass., 402.

In the case of *Anderson* vs. *Fitzgerald*, 4 House of Lords Cases 484, F. applied to an Insurance Company to effect a policy on his life. He received a form of proposal containing questions requiring to be answered. Among these were the following: "Did any of the "party's near relations die of consumption, or any other "pulmonary complaint," and "Has the party's life been "accepted or refused at any office?" To each of these questions, F. answered, "No." The answers were false. He signed the proposal and a declaration accompany-

ing them, by which he agreed "that the particulars "mentioned in the above proposal should form the "basis of the contract." The policy mentioned several things which were warranted by F. The subjects of these two answers were not included in such warranty. The policy also contained a proviso that "if "anything so warranted shall not be true, or if any "circumstances material to this insurance shall not "have been truly stated, or shall have been misrepre-"sented or concealed, or any false statements made to "the Company in or about the obtaining or effecting "of this insurance," the policy should be void and the moneys paid should be forfeited. In an action on the policy, it was *held*;—(reversing the judgments of the Courts of Exchequer and Exchequer Chamber in Ireland) that it was a misdirection to leave it to the jury to say whether the answers to the questions were material as well as false, and if not material, that the plaintiff was entitled to a verdict. The representation being part of the contract, its truth, not its materiality, was in question.

In the case of *Scales* vs. *Scanlan*, 6 Irish Law Reports, 367, the policy commenced by reciting that the assured had proposed to effect a policy on his life, and had deposited with the Company, a declaration, which being set forth as the strict statement of facts, was received as the basis and condition of the contract, setting forth certain specified items of the declaration as to his age, health, and habits, and concluding with a proviso, "that in case any untrue or fraudulent alle-"gation be contained in the said declaration, or that

"any information respecting the past health or habits "of the party assured, or other circumstances import- "ant for the directors to know, shall have been with- "held from them, * * * then and in every such case "this policy shall be null and void." The insured was asked for "Reference to the usual medical attendant "on the life or his family," he answered, "Never "had a medical attendant until Dr. Ludgate dressed "his leg when it was scalded." It appeared that the assured had been attended by Dr. Curtin, a year previous to his application, for influenza and for uneasiness of the bowels, and the question was whether his answer was a warranty or a representation. The representatives of the insured claimed that those matters in his declaration which were specially set forth in the policy, were alone to be taken as warranties, but the Court, in very elaborate opinions, held that all the matters contained in the proposal and declaration referred to in the policy, whether such matters were specially set out in the policy or not, were matters of warranty; that the enumeration of a part of them in the policy, did not make the others not enumerated mere representations; and that, though the matter as to the medical attendant was not one of those set forth in the policy, yet the statement as to him was a warranty, and not having been true, avoided the policy.

Geach vs. *Ingall*, 14 Meeson & Welsby, 95, was an action of *assumpsit* on a policy of insurance, one of the terms of which was that it should be void if anything stated by the insured, in a declaration or statement

given by him to the directors of the company before the execution of the policy, should be untrue. In this declaration the insured stated, among other things, that "he had not had any spitting of blood, consump-"tive symptoms, asthma, cough, or other affection "of the lungs." The defendant proved at the trial that about four years before the policy was effected, the insured had spit blood, and had subsequently exhibited other symptoms usual in consumptive subjects. The Judge, in summing up, stated to the jury that it was for them to say whether the insured had had such a spitting of blood and such affection of the lungs *as would have a tendency to shorten his life.* It was held that this was a misdirection, and the Court said, per POLLOCK, C. B., page 99: "By the expression 'spit-"ting of blood' is no doubt meant the disorder, so "called, whether proceeding from the lungs, the stom-"ach, or any other part of the body; still however, one "single act of spitting of blood would be sufficient to "put the insurers on inquiry as to the cause of it and "ought, therefore, to be stated."

ROLFE, B. (p. 100.) "I have no doubt that if a "man had spit blood from his lungs, no matter in "how small a quantity, or even had spit blood from an "ulcerated sore throat, he would be bound to state it. "The *fact* should be made known to the office, in order "that their medical adviser might make inquiry as to its "*cause.*"

In Cazenove vs. *The British Equitable Assurance Co.* 95 English Com. Law Rep. (6 J. Scott)437.

T. effected a policy on his own life, with a condition

thereon endorsed that "in case any fraudulent or un-"true statement was contained in any of the documents "addressed to or deposited with the company in relation "to the within assurance," then the policy shall be void.

Among the documents referred to was one called a "personal statement" which contained among others, the following questions:

"4.—Whether had since infancy any and what other "disease (than those enumerated in a preceding ques-"tion) requiring confinement?"

"8.—How often has medical attendance been "required?"

"9.—How long did such attendance continue?"

"10.—For what disease or diseases?"

"11.—For what period confined to the house or "bed?"

"12.—How long is it since these circumstances "occurred?"

"13.—Name and address of the medical attendant "or attendants employed on occasion of such disease?"

The answers to these questions were as follows:

To the 4th, "No."

To the 8th, "Two years ago."

To the 9th, "About one week."

To the 10th, "Disordered Stomach."

To the 11th, "A week."

To the 12th, "One year."

To the 13th, "Dr. R."

It appeared that the attendance of Dr. R. was in

December, 1855; that in January, 1856, the assured had had a relapse, when he was attended by Dr. C.; and that in February, while at Birmingham, he had had another severe illness, when his life was despaired of, on which last occasion he had been attended by three other medical men.

Held:—that the untruth of the above answers avoided the policy, notwithstanding the jury found that no material information had been withheld from the insurers, and it was conceded that there was no intentional fraud.

The decision in this case was afterwards affirmed in the Exchequer Chamber, when the opinion of the Court was delivered by POLLOCK, C. B. 5 Jurist, N. S. 1309.

In *Duckett* vs. *Williams*, 2nd Crompton & Meeson, 348, by a declaration and statement as to health signed by the assured, previous to effecting a policy on a life, it was agreed that if any untrue averment was contained therein, or if the facts required to be set forth in the proposal annexed were not truly stated, the premiums should be forfeited and the assurance be absolutely null and void. The statement as to the health of the life was untrue in point of fact, but not to the knowledge of the party making it. It was *held*;—that the premiums were forfeited and could not be recovered back.

In delivering the opinion of the Court in this case, LORD LYNDHURST, C. B., said:

"The point is whether the facts stated were not "truly stated within the meaning of the declaration and

"agreement. It was contended on behalf of the plain-
"tiffs that the words must mean 'truly' or 'untruly'
"within the knowledge of the party making the state-
"ment; and that if the party insuring, ignorantly and
"innocently makes a misstatement, he is not to forfeit
"the premiums under the clause in question. We are
"of opinion, however, that this is not the real meaning
"of this clause. A statement is not the less untrue
"because the party making it is not apprised of its un-
"truth; and looking at the context, we think it clear
"that the parties did not mean to restrict the words in
"the manner contended for. Two consequences are
"to follow if the statement be untrue; one that the
"premiums are to be forfeited; the other that the
"assurance is to be void. Now if the statement were
"untrue within the knowledge of the party making it,
"the assurance would be void without any such stipu-
"lation. The knowledge of the party is clearly imma-
"terial as to this last consequence, and therefore must
"be so as to the first."

In *Fitch* vs. *American Popular Life Insurance Co.*, 2 N. Y. Supreme Court Reports, 247, a life policy contained a provision that the statements in the application were warranties and in all respects true, and that the application should form the basis of the contract of insurance. The application contained a provision that the answers to the questions therein and the statements made to the examining physician and signed by him and the insured, were warranties and in all respects true. It was stated in the application that the insured never had had any illness or local

disease, when he had had, some years previously, a slight disease of the eyes; that a physician had never attended him, when three years before a physician had attended him. It was *held*:—that the statements were warranties, and being untrue, whether as to material matters or not, the policy was avoided.

In *Miles* vs. *Connecticut Mutual Life Insurance Co.*, 3 Gray's Report, (Mass.,) 580, a life policy declared that it was expressly "agreed to be the true intent and "meaning hereof," that if the proposal, answer, and declaration made by the plaintiffs, "and upon the "faith of which this agreement is made, shall be found "in any respect untrue," the policy should be void. The proposal contained a provision as to the statements made in it similar to the foregoing.

Held:—that the statements were thus made warranties; and if untrue even in an immaterial point, the policy was void.

In *The Mutual Benefit Life Insurance Co.* vs. *Miller*, 39th Indiana, 475, a life policy provided that if the declaration made by the insured of even date with the policy and upon the faith of which the contract was based, should be found in any respect untrue, the policy should be void. It was *held*;—that the application and policy must be regarded as one instrument, and the declarations in the former are therefore warranties.

See also *Vose* vs. *Eagle Life and Health Insurance Co.*, 6 Cush., 42. *Jennings* vs. *Chenango Mutual Insurance Co.*, 2 Denio, 75. *Egan* vs. *Mutual Insuramce Co.*, 5 Denio, 326. *Burritt* vs. *Saratoga Mutual Insur-*

ance Co., 5 Hill, 188. *Abbott* vs. *Shawmut Mutual Life Insurance Co.*, 3 Allen, Mass., Report 213. *Hardy* vs. *Union Mutual Fire Insurance Co.*, 4 *id.*, 217.

In *Le Roy* vs. *The Market Fire Insurance Co.*, 39 New York Reports, 12 Tiffany, 90, it was *held*;—that where a policy of insurance against loss by fire in express terms declares the survey and description of the premises referred to therein, to be a part of the policy and warranties, such description is to be so construed, and not as a representation merely.

A warranty, if broken, defeats the policy; the insurer may insist upon its exact truth according to its tenor.

In such case it is error to submit to the jury the question whether the particulars, in which at the time of issuing the policy the premises did not correspond with the description, increased the risk or not.

In *Campbell* vs. *The New England Mutual Life Insurance Co.*, 98 Mass., 389, the Court say: "A warranty in insurance enters into and forms part of the "contract itself. It defines by way of particular stipulation, descriptive condition or otherwise, the precise "limits of the obligation which the insurer undertakes "to assume. In order to charge the insurers, therefore, "every one of the terms which define their obligation "must be satisfied by the facts which appear in proof. "From the very nature of the case, the party seeking his "indemnity or payment under the contract, must bring "his claim within the provisions of the instrument he is "undertaking to enforce. The burden of proof is upon "the plaintiff to present a case in all respects conform-

"ing to the terms under which the risk was assumed. "It must be not merely a substantial conformity, but "exact and literal; not only in material particulars, but "in those that are immaterial as well."

In *Holabird* vs. *Atlantic Mutual Life Insurance Company*, 2 Dillon, p. 168, the defendant issued a policy to the plaintiff upon the life of her husband. The policy stated that it was made in consideration of the representations in the application, and of the premiums paid by the plaintiff, and provided that if within seven years of the issue thereof, the declaration made by her, and upon the faith of which the policy was issued, should be found in any respect untrue, the policy should be null and void.

In his charge to the jury, TREAT J. said:—

"The defendant seeks to avoid the policy by show- "ing that those declarations contained in the applica- "tion which are specified in the answer filed in this "case, were, or some one of them was, in some respect "untrue at the time when made. By the terms of the "contract, if any one of the said declarations is found "to have been in any respect untrue at the time when "made, then the plaintiff cannot recover. It is im- "material whether, if untrue, those declarations were "not intentionally untrue, or whether the matter in- "quired into, had it been otherwise answered, would "have caused the risk to be considered more hazar- "dous, or whether the disease denied contributed to "the death. Contracts like that sued on are based "for their validity upon the truthfulness of the de- "clarations made by the applicant in the written appli-

"cation to the Company. Whether the representa-
"tions were material to the risk or not, is not open for
"inquiry in this case; for the defendant and plaintiff
"agreed, as it was competent for them to do, that if
"any of the declarations were in any respect untrue,
"the policy should be void."

The case of *Jeffries* vs. *The Economical Mutual Life Insurance Company*, decided by this Court in April 1875, to be reported in 22nd Wallace, it is submitted, is decisive of the present cases.

The policies contained conditions similar to those sued on here. In answer to a question in the application for the policy whether he was married or single, the assured had stated that he was single. To a question whether application had been made to any other company, he answered "No." Both these answers were untrue.

In delivering the opinion of the Court, MR. JUSTICE HUNT proceeded as follows:—

[We give the language of the learned Judge at greater length than is usual, inasmuch as, at the writing of this brief, the volume of Reports containing the opinion has not been published.]

"We are to observe, first, the averments of the
"plea:—

"That Kennedy, in and by his application for the
"policy of insurance, in answer to a question asked of
"him by the Company whether he was married or sin-
"gle, made the false statement that he was single,
"knowing it to be untrue; that in reply to a further
"question therein asked of him by the Company,

"whether any application had been made to any other "company, if so, when, answered 'No;' whereas, in "fact, at the time of making such false statement, he "well knew that he had previously made application "for such insurance, and been insured in the sum of "ten thousand dollars by another company.

"*Secondly*, we are to observe the provisions of the "contract:—

"That the statements and declarations made in the "application for said policy, and on the faith of which "it is issued, are in all respects true, and without the "suppression of any fact relating to the health or cir- "cumstances of the insured affecting the interests of "the Company.

"We are to observe also this other clause of the "policy, in which it is declared that this policy is made "by the Company and accepted by the insured upon "the express condition and agreement that such state- "ments and declarations are in all respects true. This "applies to all and to each one of such statements. In "other words, if the statements are not true, it is "agreed that no policy is made by the Company and "no policy is accepted by the insured.

"The proposition at the foundation of this point is "this: that the statements and declarations made in "the policy shall be true. This stipulation is not ex- "pressed to be made as to important or material state- "ments only, or to those supposed to be material, but "as to all statements. The statements need not come "up to the degree of warranties. They need not be "representations even, if this term conveys an idea of

"an affirmation having any technical character. State-
"ments and declarations is the expression—what the
"applicant states and what the applicant declares.
"Nothing can be more simple. If he makes any
"statement in the application it must be true. If he
"makes any declaration in the application it must be
"true. A faithful performance of this agreement is
"made an express condition to the existence of a lia-
"bility on the part of the Company.

"There is no place for the argument either that the
"false statement was not material to the risk or that
"it was a positive advantage to the company to be de-
"ceived by it.

"It is the distinct agreement of the parties that the
"Company shall not be deceived to its injury or its
"benefit. The right of an individual or a corporation
"to make an unwise bargain is as complete as that to
"make a wise bargain. The right to make contracts
"carries with it the right to determine what is prudent
"and wise, what is unwise and imprudent, and upon
"that point the judgment of an individual is subject to
"that of no other tribunal.

"The case in hand affords a good illustration of this
"principle. The Company deems it wise and prudent
"that the applicant should inform them truly whether
"he has made any other application to have his life
"insured. So material does it deem this information,
"that it stipulates that its liability shall depend upon
"the truth of the answer. The same is true of its
"enquiry whether the party is married or single. The
"Company fixes this estimate of its importance. The

"applicant agrees that it is thus important by accept-
"ing this test. It would be a violation of the legal
"rights of the Company to take from it its acknowl-
"edged power thus to make its opinion the standard of
"what is material, and to leave that point to the deter-
"mination of a jury. The jury may say, as the coun-
"sel here argues, that it is quite immaterial whether the
"applicant answers truly if he answers one way, *viz:*
"that he is single, or that he has not made an applica-
"tion for insurance. Whether a question is material
"depends upon the question itself. The information
"received may be immaterial. But, if under any cir-
"cumstances, it can produce a reply which will influ-
"ence the action of the Company, the question cannot
"be deemed immaterial. Insurance companies some-
"times insist that individuals largely insured upon their
"lives, who are embarrassed in their affairs, resort to
"self-destruction, being willing to end a wretched exist-
"ence if they can thereby bestow comfort upon their
"families. The juror would be likely to repudiate such
"a theory on the ground that nothing can compensate
"a man for the loss of his life. The juror may be
"right and the Company may be wrong. But the Com-
"pany has expressly provided that their judgment and
"not the judgment of the juror shall govern. Their
"right thus to contract, and the duty of the Court to
"give effect to such contracts cannot be denied."

After citing the cases of *Anderson* vs. *Fitzgerald*, and *Cazenove* vs. *British Equitable Assurance Co.*, (cited supra) the learned Judge proceeds:

"Many cases may be found which hold that when "false answers are made to inquiries which do not "relate to the risk, the policy is not necessarily avoided "unless they influenced the mind of the Company, and "that whether they are material is for the determination "of the jury. But we know of no respectable authority "which so holds where it is expressly covenanted as a "condition of liability, that the statements and declara- "tions made in the application are true, and when the "truth of such statements forms the basis of the con- "tract."

The close resemblance between the case thus decided, and the cases now brought before the Court, is too apparent to require extended comment. The language of the policy in the former case was:—"This policy is "issued by the Company and accepted by the insured "and the holder thereof, on the following express con- "ditions and agreements:" In the present cases the language is:—"This policy is issued, and accepted by "the insured, upon the following express conditions "and agreements." In the former case, the condition was:—"That the statements and declarations made in "the application for this policy, and on the faith of "which it is issued, are in all respects true." "In case "of the violation of the foregoing condition," etc., "this "policy shall become null and void." The policies sued on in the present cases provide that:—"if any of the "statements or declarations made in the application for "this policy, upon the faith of which this policy is "issued, shall be found in any respect untrue, * *

"* this policy shall be null and void." The contract in each case was the same in substance and in almost the same language. In the former case, the answer was untrue, yet if the question had been truly answered, the information received would have made the insurance a more desirable risk. In these cases, if the question had been truly answered, it would have disclosed the fact that the insured had received a severe injury which permanently affected his health,—his physician having testified that the insured walked more slowly than usual long after the accident and complained of giddiness in the head. These facts, if made known to the Company by the insured, would, probably, have induced them to decline the risk. The learned Judge in his charge to the jury says, substantially, if the fall upon the head, for which the insured was attended by a physician, was a *severe* fall, the answer was untrue, and the verdict should be for the defendants,—clearly intending thereby to say that, if it was not a severe fall, the answer was true, and the verdict should be for the plaintiffs. The point thus presented to the jury is that of the severity of the fall, and as they find it severe or the contrary, so they are to find the verdict. This is utterly at variance with the doctrine laid down by this Court and all other Courts. This Court say, if the answer was untrue in any sense,—if the insured was attended by a physician for any fall, severe or not, and denied the fact in his answer,—the policy was thereby rendered void, and the plaintiffs can not recover.

THIRD AND FOURTH SPECIFICATIONS OF ERROR.

Third.—In charging the jury in answer to the said Fourth point, in a manner which tended to mislead and confuse the minds of the jurors by the use of the following language: "So if the jury find that the at-"tendance of the physician was for any disease or in-"jury within the meaning of the question, the verdict "should be for the defendants."

Fourth.—In not answering the said Fourth point simply and plainly in the affirmative.

The plaintiffs in error were entitled to an answer to the point presented by them, which could not be misunderstood by the jury. By the language employed by the learned Judge in the concluding sentence of his answer, the jury were led to believe that the question submitted to the insured, had a meaning different from that apparent on its face. The meaning and object of the questions are obvious. The Insurance Company seeks to learn when the insured last required medical attendance, and the disease or injury which occasioned such attendance, in order to determine the effect of such disease or injury on the nature of the risk to be assumed by them, and to have the benefit of a consultation with such medical attendant in arriving at this determination. If the insured has had a disease or injury requiring medical attendance, any answer which fails to disclose that fact is untrue and deceptive. From the vague and myste-

rious language employed by the learned Judge in his charge, the jury might infer either that the answer was to be considered untrue, only in case the untruth related to a serious disease or severe injury, or that the question had some other meaning which it was for them to determine. The instruction of the learned Judge embraces two distinct things. *First*, he says, "If the fall upon the head, for which Monroe Snyder "was attended by the physician, was a severe one, "the answer was untrue, and the verdict should be "for the defendants;" and then he adds a very different thought: "So, if the jury find that the attend- "ance of the physician was for any disease or injury "within the meaning of the question, the verdict should "be for the defendants." The intimation was thus clearly given to the jury by the second branch of the instruction that the question in the application had some meaning which was not apparent on its face, and which the jury were first to search for and find out, and having thus ascertained the disease or injury to which they supposed the question to relate, then to determine whether the attendance of the physician was for such a disease or injury. The question in the application was a plain and simple one, and the insured had given to it a clear and direct answer utterly at variance with the truth. The Judge was requested to say that if the answer was untrue, the policies were thereby rendered void. In place of saying so, he starts the jury upon an inquiry into the meaning of the question in the Application, as if it contained something hidden and obscure, and then directs them to find

whether the attendance of the physician was for any disease or injury which might be found lurking within the meaning of the question. They were to determine for themselves the meaning of the question, that is, they were to interpret for themselves the proper legal construction of a question contained in a written paper, and having reached a construction to suit themselves, they were to find whether the attendance of the physician was for any disease or injury within the meaning of the question thus interpreted by themselves. Could anything be better fitted to lead the minds of plain and simple laymen away from the real point involved in the prayer for instruction, *viz.*, that the answer of the insured was untrue and that the policy was thereby rendered void? The authorities before cited show that in a contract of this nature, if the insured make an untrue statement in his answers to the questions in the application, ignorantly or designedly, as to a fact material or immaterial to the risk,—the policy is thereby avoided. The evidence of the untruth of the answer having been clear and positive, and uncontradicted by the plaintiffs, there was really no question to be submitted to the jury, and the point presentedto the learned Judge should have received a plain and simple answer in the affirmative.

It is scarcely necessary to remind any lawyer that the interpretation and construction of a written instrument are for the Court and not for the jury. *Morrell* vs. *Frith*, 3 Meeson & Welsby, 402. *Hutchison* vs. *Bowker*, 5 *id.*, 535. *Neilson* vs. *Harford*, 8 *id.*, 823. *St. John* vs. *Bumpstead*, 17 Barb., 100. *Vincent* vs.

Huff, 8 Sergeant & Rawle, 381. *Roth* vs. *Miller*, 15 *id.*, 100. *Sidwell* vs. *Evans*, 1 Penrose & Watts, 383. *Connellogue* vs. *English*, 8 Watts & Sergeant, 11.

An instruction which may mislead a jury is erroneous. *Caldwell* vs. *The United States*, 8 Howard, 366. *Blackburn* vs. *Crawford*, 3 Wallace, 176.

"LORD HALE says they should be told 'where the "main question or knot of the business lies:' What "was said could hardly fail to mislead and confuse. It "permitted them to substitute conjecture for deduc-"tion, and opened a field beyond the sphere of the "case, where the means of error were abundant." Per SWAYNE, J:, in *Blackburn* vs. *Crawford*, 3 Wallace, 176.

WILLIAM A. PORTER,
GEORGE W. BIDDLE,
For the Plaintiffs in Error.

In the Supreme Court of the United States.

The Mutual Life Insurance Company of New York, A Corporation created and established by the Laws of the State of New York, PLAINTIFF IN ERROR, *vs.* ANNA M. SNYDER, A citizen of Pennsylvania, DEFENDANT IN ERROR.	*October Sessions,* 1875. No. 288.

The Mutual Life Insurance Company of New York, A Corporation created and established by the Laws of the State of New York, PLAINTIFF IN ERROR, *vs.* LEWIS W. SNYDER, A citizen of Pennsylvania, DEFENDANT IN ERROR.	*October Sessions,* 1875. No. 289.

BRIEF OF THE DEFENDANTS IN ERROR.

EDWARD J. FOX,
HENRY GREEN,
Counsel for the Defendants in Error.

In the Supreme Court of the United States.

Writ of Error to the Circuit Court of the United States for the Eastern District of Pennsylvania.

The Mutual Life Insurance Company of New York, a corporation created and established by the laws of New York, Plaintiff in Error,	OCTOBER SESSION,
vs.	1875.
Anna M. Snyder, a citizen of Pennsylvania, Defendant in Error.	No. 288.

The Mutual Life Insurance Company of New York, a corporation created by the laws of the State of New York, Plaintiff in Error,	OCTOBER SESSION,
vs.	1875.
Lewis W. Snyder, a citizen of Pennsylvania, Defendant in Error.	No. 289.

COUNTER STATEMENT OF DEFENDANTS IN ERROR.

The material facts of the cases do not all appear in the Plaintiff's history, and no allusion is there made to some of the most important testimony in the cause. The Plaintiff's history says, on page 3, that Snyder "fell from the top of the car to the ground" while unloading slate, striking his head against the

wagon or the car. No witness was examined who saw Snyder fall. Fulmer, who came upon the ground immediately afterwards, says, (see record in 288, p. 37 and in 289, pp. 62-3). "There was a plank laid from the wagon to the car to walk on to carry slate from the wagon to the car, and the men there did not know whether he had made a misstep and stepped off the side of the plank or the plank had tilted." As the plank must have rested on the platform of the car, it is safe to assume that the elevation from which he fell was not greater than about three feet, if so much. The fall was not severe enough even to break the skin. No mark was found but a swelling or lump. He was unconscious but a very few minutes, no after effects were observed by the physician or any one else; Dr. Stout was unable to say that he actually gave him any medicine whatever, the extent of his testimony being that he gave him nothing but cooling remedies such as nitre, if anything, and probably felt his pulse. He says, "I told him there was apparently nothing wrong with him, but he had better keep quiet a couple of days," (see record in 289, p 64) and he also says, "After a few days had passed over, nothing turned up, and *I thought it a trifling injury.*" He also testifies that he was the examining physician of the Defendant, and took the examination of Snyder for this very policy, and never thought about this little matter, and if he had, he did not think he would have mentioned it as a serious injury, (see p. 64, record in 289). It was also proved that Snyder's employer, William Chapman, had never docked him of any time on account of the injury, although he had heard of it, and that Snyder always attended to his duties just as before. Of course, the injury had nothing whatever to do with Snyder's death, nor is there the least reason to believe that it would have affected the risk in the slightest degree if it had been mentioned. It is also to be remarked that both Fulmer and Dr. Stout were the company's witnesses, and that the exceedingly trifling character of the injury was thus proven by the Defendant's own testimony.

BRIEF OF THE ARGUMENT FOR THE DEFENDANTS IN ERROR.

FIRST AND SECOND SPECIFICATIONS OF ERROR.

Although the four errors assigned do not vary materially, we follow the order of discussion pursued by our learned opponents.

Much of that discussion is in our opinion quite foreign to the very matter presented for the decision of this court. Thus the question of the *materiality* of the answer of the assured in cases of warranty, touching which our friends exhibit so many of their authorities, is not germain to the present topic of discussion, because no form of that question was covered by any thing said by the learned Judge of the court below. Nor does the distinction between a representation and a warranty also largely discussed by our friends, have any vital importance in the present argument. As there appears to be a considerable divergance of sentiment between us, as to what is the real subject of decision, and therefore of discussion, it will be well to state at the outset what we consider that sublect to be.

On the trial, four points were submitted to the court below by the counsel for the Insurance Company. They were all answered by the court, and the answers are printed on page nine of the plaintiffs' brief. The points appear on pages seven and eight, and in every one of them the *severity* of Monroe Snyder's injury is made a qualifying characteristic of the facts predicated as the basis of the legal conclusion which the court was required to draw.

Thus in the first point it is alleged that Snyder had a *severe* fall upon his head, and therefore, he told a falsehood when, in re-

ply to question thirteen, which asks "have you ever had a disease of any other vital part"?—he said "Small pox or small pox thirty years since, none of rest." Of course the learned counsel could not have meant to ask the court to say that if the deceased had received *any* fall, no matter how slight, he was thereby to be taken *as a matter of law* to have had a disease of a vital part, so that his negative answer to the question was and is to be treated as an avoidance of the policy. It was not the *fact* of the fall, but its character as being *severe* that constituted the essence of the point. So the court understood it and affirmed the point, subject to the *severity* of the injury, erroneously as we regard it as against us, but in favor of the defendant in the only possible sense in which the counsel or the court could have understood it. With this answer the plaintiff is entirely satisfied, since the counsel assign no error to it.

The same observations are true of the second point and the answer to it. The proposition of the point was that Snyder had had a *severe* concussion of the brain, and therefore he had had a serious illness, local disease or personal injury. When the court said that if the jury found the concussion to be severe, the verdict should be for the Defendant, they certainly satisfied every demand of the Defendant, because no error is assigned to the answer.

In the third point and answer the matter was intensified by a distinct proposition that a *severe* fall resulting in concussion is a severe personal injury within the meaning of the term used in the applications. This also the court affirmed.

Then follows the fourth point, declaring that the deceased was attended by a physician for a *severe* fall upon his head, and concluding, that because he had been inquired of as to the attendance upon him of a physician, *for a disease*, and had answered "not for twenty years," this was an untrue answer, and the policy was avoided. Here, again, it was the *character or quality* of the fall,

and not the mere fact of the fall, nor the mere fact of the attendance of a physician by *itself alone*, that is presented to the consideration of the court, and the court treated the subject precisely as it had treated the same subject in the answers to the other points, the legal conclusion was affirmed if the fact upon which it was based was found to exist. And yet strange to say, our learned friends find cause of error in this, though perfectly satisfied with the other answers, and, judging from that portion of the argument which relates to this very subject (see p. 29) the process of reasoning appears to be that the judge was in error, because he left to the jury the question of the *severity* of the fall instead of deciding it himself, or telling the jury that the severity of the fall had nothing to do with the point, although it was expressly propounded as a part thereof.

Now we hold that the only question for this court is, was the court below in error in their *answer to the point submitted?* That is a very different question from the question whether the answer made by Snyder to the seventeenth interrogatory was true, either literally or substantially. We shall show hereafter that it was a true answer in every proper sense in which that interrogatory can be regarded, but the point was not framed so as to raise an issue upon the mere technical or literal truth of the answer. We respond therefore to the opposing argument.

First. That it is not true that the testimony is unimpeached "and uncontradicted, that Monroe Snyder was in the month of "December, 1867, attended several times by Dr. Abram. Stout, a "physician, for a severe fall upon his head," as is asserted in the fourth point, and therefore, there was no error of which the Defendant can complain, in the answer of the court to that point, leaving the question of the severity of the fall to the jury.

The point as propounded, required the court to give a binding legal instruction upon undisputed facts. While we recognize such a duty where the facts really are undisputed, nothing is clearer

than that the court have no right to usurp the functions of the jury and decide controverted facts.

Marine Insurance Company of Alexandria vs. Tucker, 3 *Cranch* 391. *Smith vs. Carrington*, 4 *Cr.* 62. *Crane vs. Morris*, 6 *Pet.* 598. A refusal to charge upon a disputed question of fact is not error.

United States vs. Burnham, 1 *Mason* 57. It is not error to refuse an instruction which involves an opinion on matters of fact.

Carver vs. Astor, 4 *Pet.* 80. *Magniac vs. Thompson*, 7 *Pet.* 348. A court of error has nothing to do with the comments of the judge upon the evidence.

United States vs Jones, 8 *Pet.* 399. A judge is not bound to instruct the jury that it is competent for them to draw certain inferences from the evidence.

Tracy vs. Swartwout, 10 *Pet.* 80. *United States vs. Laub*, 12 *Pet.* 1. A court may give its opinion on a matter of fact, but must do so in such way as not to be binding on the jury.

Greenlief vs. Birth, 9 *Pet.* 272. An instruction that takes from the jury the right of weighing the evidence is erroneous.

Dingee vs. Jackson, 11 *Harr.* (*Pa.*) 176. The court of error will not reverse for a refusal to take a cause from the jury except in a very clear case.

Now the court really affirmed all the law there was in the fourth point by saying that if the facts were as stated in the point, the verdict should be for the Defendant. They could go no further than that without deciding that it was an *undisputed fact* that Snyder had been attended "for a *severe fall* upon his head." But the court could not say that, for it was not only not an undisputed fact that such was the case, but on the contrary the whole burden of the testimony was that the physician's attendance was not for a severe, but for a trifling fall. The learned counsel framed their point in their own chosen language. They did not ask the court

to say that the answer was false if Snyder was attended by a physician at all, for any cause, no matter how slight They could have so framed their point if they had desired to do so, but that was not their wish. Yet the question that would then have arisen is the only question they now discuss. As they did not ask for the specific instruction, the want of which they now complain of, they are not at liberty to assign the absence of such instruction as error, nor ought they to be. It would be very unfair to a court to so frame a point as to raise one question and then complain of error because they had not answered some other request not contained in the point It is perfectly familiar doctrine that the absence of an instruction not asked for is no ground of error.

Weamer vs. Juart, 5 *Cas.* (*Pa.*) 257. The omission to give instructions which would have been proper in the case, if there was no prayer to that effect, will not be error.

Newman et. al. vs. Edwards, 10 *Cas.* 32. The Supreme Court will not reverse a judgment because of an omission on the trial to instruct the jury on a material point in the cause if the attention of the court below was not directed to it by the parties.

Garret vs. Gonter, 6 *Wr.*, *on p.* 146. Omission to charge is not error if the point is not presented.

Walker vs. Humbert, 5 *P. F. Smith*, (*Pa.*) 407. A mere omission of a judge to charge on a particular aspect of a case, is not error when his attention is not called to it, with a request to charge on it.

Armstrong vs. Tolen, 11 *Wheat.* 277. *Pennock vs. Dialogue*, 2 *Pet.* 1. *Barron vs. Reab*, 9 *How.* 366. An omission to charge on a particular point is not assignable for error unless there was a request to the court to so instruct the jury.

It is also the law that if a point be not true in the very terms in which it is put it is not error to refuse it. Every sentiment of fairness to the court, and of regard to the rights of litigants dic-

tates the propriety of such a rule, and it is the well established law of this court.

Violett vs. Patten, 5 *Cr.* 142. "When the error alleged is not that the court has misdirected the jury, but that the court has refused to give a particular opinion, the opinion demanded must be so perfectly stated that it becomes the duty of the court to give it as stated." Per. Marshall, C. J.

Brooks vs. Marbury, 11 *Wheat*, 78. "In discussing the propriety of refusing to give this instruction, it may be proper to observe that there is no error in rejecting a motion of this description (motion for instruction) unless it ought to have prevailed in the very terms in which it was made, nor is a court to be required to give opinions on abstract propositions not supported by any evidence in the cause. The language in which counsel addre sed this application to the court, presents different ideas to the mind and is susceptible of different constructions." Per. Marshall, C.J.

If a prayer for instructions be not correct in its very terms, it is not error to refuse it. *Buck vs. Cheaspeake Ins. Co.* 1 *Pet.* 151. *Elliott vs. Piersol*, *Ibid* 328. *Columbia Ins. Co. vs. Lawrence*, 2 *Pet.* 25. *Scott vs. Ratliffe*, 5 *Pet.* 81. *Winn vs. Patterson*, 9 *Pet.* 663. *Moore vs. Bank of Metropolis* 13 *Pet.* 302. *United States vs. Bank of Metropolis*, 15 *Pet.* 378. *Catts vs. Phalen*, 2 *How.* 376.

That the judge's language was ambiguous is no ground of error unless the complaining party, at the time, requested a clearer statement of the views of the court. *Locke vs. United States*, 2 *Cliff*, 574.

Now it is too plain for argument that the *very terms* of the fourth point required the court to say that "the testimony is un-"impeached and uncontradicted, that Monroe Snyder was in the "month of December, 1867, attended several times by Dr. Abram "Stout, a physician, for a severe fall upon his head," and there-

upon to give a binding direction that the answer to the question was untrue. It is the very language of the point, and it is quite manifest that the extreme words, "sev[illegible]re fall upon his head," were used for the very purpose of thereby inducing the court to go to the great length of taking the case entirely away from the jury. The learned counsel could not have hoped that the court would say, that any attendance whatever of a physician, being proved, would have avoided the policy, because if that be so then it would necessarily result that if an assured person was at any time in his life attended by a physician for the most trifling and insignificant cause, as for a headache, or a toothache, or a pain in the bowels, or a sprain, or a boil, or a pimple, or a cut of the skin, or a corn, wart, or bunion, and omitted to state it in his application in reply to such a question, his policy would be void. Such doctrine has often been rejected and has never yet prevailed, and we can not believe it ever will. Yet it is just such doctrine that this court is now asked to promulge, and that too by reversing a judge for not declaring it when he was not asked to do so.

Having said this much on the general subject, let us now see what was the actual state of the testimony in regard to the character of Dr. Stout's attendance. The point affirms that it is the uncontradicted testimony that the attendance was for a *severe* fall upon the head. We assert that it is the uncontradicted testimony that Snyder was *not* attended by a physician for a severe fall upon the head, but for a very light and trivial one, and that this is proved by the Defendant's own witnesses. The Defendant examined two witnesses, N. A. Fulmer and Dr. Abram. Stout, and we examined one, William Chapman. The whole of this testimony is found on pages 62 to 64 of the record in the case No. 289, and on pages 37 to 39 in the case No. 288. A part of it is quoted in the paper book of Plaintiff in error on pages 4 and 5. Fulmer said, after describing the plank from which Snyder fell, and the position in which he found him, "I saw where he was "hurt. After we raised him we examined him and found a lump

"on the head; *the bruise was not open; the head was not cut, but "there was a swelling on it. I think it was on top of the head.* I "requested the men to carry him to my office. They took him to "my office. I then left and did not see him till about ten min- "utes afterwards, when I saw him in my office. He was in a "manner coming too then. When we first found him his eyes "were closed; when I saw him the second time in my office his "eyes were open as though he recognized those around him, "though he did not speak. He also says, page 38 of No. 288, "Don't know whether he was leaning against his son or not * * "I don't remember whether he walked or was carried from my "office to the wagon * * * I sent for the doctor; he is the rail- "road company's physician; we always send for him when any- "thing occurs on the railroad." The witness then left and next saw him when he was being taken to the carriage and driven off, and he did not see him again for some days.

So far as this testimony goes, it shows an ordinary case of a person receiving a slight fall, and by reason, probably, of striking his head against the ground or a hard substance, becoming unconscious for a few minutes, then becoming restored. The only external mark of injury was a lump or swelling, the skin not even being cut through. The witness says nothing further.

Then Dr. Stout is examined and says, (see pp. 38-39 of No. 288) in addition to the testimony printed by Plaintiff in error, page 5, "I was the regular physician of the Lehigh Valley Rail- "road Company. They sent for me on this occasion; I prescrib- "ed simple remedies, and watched the symptoms; my object was "to watch whether anything turned up, and give him simple "remedies in the meantime;' after a few days had passed over, "nothing turned up, and *I thought it a very trifling injury;* "*after I had observed its effects I considered it trifling;* I was "afterwards, and am now, examining surgeon of the New York "Mutual Life Insurance Company, and was in 1872."

"Q.—When you examined Monroe Snyder, did you think it "worth while to mention this injury in your certificate?"

"Ans.—I did not think of it, to be frank with you, when I made "out the application, (application of July 9th, 1872, shown wit- "ness and question No. 23 of medical examiner's certificate read "to witness) as I read those questions to him he answered, no; "*if I had thought of this injury, I don't think I should have put* "*it down as a serious injury;* I went to see him the day after "this accident happened and found him lying on the sofa; I am "not positive whether he sat up the first or second day; he did "a day or two afterwards; I am not positive whether he wanted "to go out; I told him there was apparently *nothing the matter* "*with him*, but he had better keep quiet a couple of days; I gave "him nothing but cooling remedies; I may have given him a "purgative if that was necessary; I don't think I did; I don't "remember whether a Sunday intervened on which I did not visit "him."

"Re-examined.—*I very likely gave him nitre and felt his pulse.*"

William Chapman, examined by Plaintiffs, (see p. 39, in No. 288) says, "I live at Bethlehem now, I am president of the Chapman Slate Company, I knew Monroe Snyder, I knew him intimately since 1866. He was employed about June, 1866, and continued in our employ until December, 1870. He sold slate and made collections sometimes. His principal duty was to take charge of slate sent to Bethlehem, and to ship it in cars. I did not send him far off to make collections. He was a prompt and accurate business man. I heard of his getting a fall while in our employ. I was living at the quarry at Chapman Borough at the time. *He was not docked of any time. He lost but little time up to the time he left our employ, he continued to attend to his business as before. Couldn't notice that his health was affected at all by it.*

It seems useless to comment upon this testimony. It was not

in the least degree contradicted, and it proves conclusively that the attendance instead of being for a severe fall, as the judge was asked to say in a binding instruction, was for a slight and trifling fall. The court could not possibly have affirmed the point without committing the grossest error.

Second. The character of the injury as being severe or slight is exclusively a question of fact, which the court would have been obliged to commit to the jury, if the testimony was conflicting, and therefore the point could not be affirmed in the terms in which it was propounded. Of course whether a fall or injury is *severe*, is a pure question of fact and in no possible sense a question of law. The injury is illustrated by showing all the facts attending it, and the consequences which follow it. Upon weighing all these the jury and not the court fix its character as serious or otherwise. This whole subject of the serious or trifling character of a personal injury, not mentioned, and indeed denied by the assured, in the application, was recently considered by this court in a case when the very question arose as to what was the duty of the assured, and the obligation of the insurer, and by what tribunal the matter was to be decided.

Insurance Co. vs. Wilkinson, 13 *Wall.* 223. The assured in a life policy in reply to the question, "had she ever had a serious personal injury?" answered "No." She had ten years before fallen from a tree. This is not to be determined exclusively by the impressions of the matter at the time; but its more or less prominent influence on the health, strength and longevity of the party is to be taken into account, and the jury are to decide from these and the nature of the injury, whether it was so serious as to make its non-disclosure avoid the policy.

The question of the character of the injury was left to the jury, who found the fact of the fall, but also that it was not serious. The court had said to them that in determining this question they might consider the ultimate effect of the fall, and if it did not

affect Mrs. Wilkinson's health or shatter her life, the non-disclosure of the fall was no defence. This was assigned for error, the counsel for the Company contending that the statement in the application was a warranty, (just as in the present case) and that the parties were bound by the aspect of the injury as it was at the time of its occurrence. But this court affirmed the ruling of the court below, and on page 230, M. Justice Miller, in delivering the opinion of the court, uses the following language :

"It is insisted by the counsel for the Defendant that if the injury was considered serious *at the time*, it is one which must be mentioned in reply to the interrogatory, and that whether any further inquiry is expedient on the subject of its permanent influence on the health is for the insurer to determine, before making insurance. But there are grave and obvious difficulties in this construction. The accidents resulting in personal injuries, which at the moment are considered by the parties serious, are so very numerous, that it would be almost impossible for a person engaged in active life to recall them at the age of forty or fifty years ; and if the failure to mention all such injuries must invalidate the policy, very few would be sustained, when thorough inquiry is made into the history of the party whose life is the subject of insurance. There is besides the question of what is to be considered a serious injury at the time. If the party gets over the injury completely without leaving any ill consequence, in a few days, it is clear that the serious aspect of the case was not a true one. Is it necessary to state the injury and explain the mistake to meet the requirements of the policy ? On the other hand, when the question arises, as in this case, on a trial, the jury, and not the insurer must decide whether the injury was serious or not. In deciding this are they to reject the evidence of the ultimate effect of the injury on the party's health, longevity, strength and other similar considerations ? This would be to leave out of view the essential purpose of the inquiry, and the very matters

which would throw the most light on the nature of the injury, with reference to its influence on the insurable character of the life proposed. Looking, then, to the purpose for which the information is sought by the question, and to the difficulty of answering whether an injury was serious, in any other manner than by reference to its permanent or temporary influence on the health, strength and longevity of the party, we are of the opinion that the court did not err in the criterion by which it directed the jury to decide the interrogatory propounded to them."

Here it will be observed the direct question as to the occurrence of a serious personal injury was put to the insured, and she had answered with a flat negative. It appears also that the injury *was* considered serious at the time of its occurrence, but nevertheless this court held that if in point of fact, the subsequent developments tended to show that it was not serious, and of this the jury were the judges, there was no duty of the insured to make any mention of it whatever.

Wilkinson vs. Conn. Mut. Life Ins. Co., 30 *Iowa* 119, is also referred to on the same subject.

In *May on Insurance*, *p.* 323 § 296, the doctrine is thus stated: "The ordinary question whether the applicant has ever had any serious illness, as the word "serious" is a relative term involving a question of degree, and it being certain that there are all degrees of illness, from the slightest, about which no concern is felt by any one, to the most aggravated, attended by the most alarming developments, and the most serious consequences about which there is everywhere the highest degree of concern, and as even a disease regarded in its course as of the most trivial in its character may be followed by the most serious results, seems to be a question of opinion, the expression of which should be based upon intelligence and good faith. What one may call serious another might not, and where there is no test furnished by the insurers by which the applicant can know what serious illness means, his failure to men-

tion one which he does not regard as serious, works no forfeiture of the policy, though in fact the illness not mentioned was a serious one." Citing *Hogle vs. Guardian Life Ins. Co.* 6 *Rob.* (*N. Y. Superior Ct.*) 567. "So if the inquiry be as to the prior existance of disease having a tendency to shorten life, or rendering an assurance upon it, more than usually hazardous. An honest belief in the truth of his answer is all that is required of the applicant. He may have had repeated attacks of disease, but if he does not know or have reason to believe, that they come within the range of the inquiry, his failure to answer is immaterial even though in point of fact they had a tendency to shorten life, and to increase the hazard of the risk." Citing *Jones vs. Provincial Ins. Co.* 3 *C. B.* (*N. S.*) 65. *Linderman vs. Desborough*, 8 *B. & C.* 586. *Hutchinson vs. National Loan Assurance Society*, 7 *Ct. of Sess. Cas.* 2*d*, *ser.* (*Scotch*) 467.

We respectfully submit that when the court below was required by the point to say to the jury that the deceased had been attended by a physician *for a severe fall upon his head*, it was the plain duty of the court to commit that question to the jury, in view of all the evidence in the case.

Third. The jury having found by their verdict for the plaintiff, that Monroe Snyder was *not* attended by a physician for a severe fall upon his head, the defendant and the court below, and this court are all conclusively bound by that finding, and can not now call it in question. There was no motion for a new trial upon the the ground that the verdict was against the evidence, or upon any other ground, and hence we have the right to assert, and it can not be gainsayed, that the fundamental proposition of the point is not true in fact, and therefore the legal conclusion sought to be based upon that proposition does not follow.

Fourth. But there is another view of the whole subject which in our judgment is entirely fatal to the theory of the Plaintiff in error. It is this—that the question No. 17 did not call upon the

deceased for information as to any attendance whatever that he might have received from a physician, but only for a particular class or kind of attendance, and therefore the answer was literally true, because there never was any attendance of that kind. The case has been argued by our learned friends as if the deceased had been asked, "Have you at any time been attended by a physician?" and that having answered "not for twenty years," the answer was false, because he had been attended for something or other, no matter what, in 1867. On page 29 they say, "if the answer was untrue in any sense, if the insured was attended by a physician for any fall whether serious or not, and denied the fact in his answer, the policy was thereby rendered void."

This proposition we deny altogether It can not be true unless it was the duty of the assured to inform the company of every kind of medical attendance he had received. But the duty of the assured to give such information must necessarily be measured by the question that was put to him. If that question was so framed as to lead him to suppose in good faith, that he was required to give a particular kind of information, he can not be charged with falsehood if he omitted to give information of some other kind than that. If the question No. 17 had stopped with the inquiry, "how long since you were attended by a physician?" there would be some plausibility in the opposing argument, but the question did not stop there, that clause is only a part, and not by any means so vital as the other parts of the question. The whole question is as follows:

"17.—How long since you were attended by a physician? For "what diseases? Give name and residence of such physician." The fourth point asserts (paper book page 8) that only one aswer was made to this question in all the cases, to wit: "not for twenty years;" this is not correct in fact, and the point was therefore erroneously presented to the court below in another important respect. The truth is, three answers, all of them different, were

made, or rather were written in the application by the company's agent, for they were filled up by the agent, and not by Snyder. The answers appearing in the application were as follows: In the case No. 288 see record p. 23) "For small pox 30 years ago." In the case 289 in one application, July 9, 1872, (see record p. 32) "None since small pox 30 years ago," and in the application in the same case, dated Sept. 18, 1872, see record p. 47) "not for 20 years." He had said in reply to other questions that he had had small pox, and had not had any of a large number of other diseases, and he is now asked the separate question No. 17. That question is a unit. It is not even divided into separate sections, "A" and "B," as is done in ques ions 8, 9, 10, 11, 12, 14, 15, and 16. But although the whole question is punctuated with interrogation marks, its plain, indeed its only meaning is, "how long is it since you were attended by a physician for a disease, and what is his name?"

The first clause simply inquires as to the *length of time that had elapsed* since a physician attended him. It did not indicate any thing as to the kind or cause of attendance either general or special, nor was it an inquiry as to the general *fact* of attendance. It asked for nothing but a period of time. But the second clause did indicate, and with precision, what quality or kind of attendance was required to be communicated. It was not *any* attendance, but attendance for *diseases*. "For what diseases?" the question asked, not for all causes but for those particular causes called *diseases*, and lastly, he was required to name the physician. What was Monroe Snyder to understand by this question? What would any man of the ~~dullest~~ highest intelligence or any lawyer even, understand? But one answer is possible. He was expected to state how much time had elapsed since he was attended by a physician for any *disease*; not for a cut, bruise, wound or fall, unless, indeed, such injuries had been received and had run into the form of a disease. In previous questions he had been inquired of as

to personal injuries, and his answers to them are not impeached as false. But in this question his attention is directed to such medical attendance as he had received within a space of time which he was to remember and indicate. He would, of course, exert his memory to recall any illness or disease with which he had been afflicted, and for which he had been attended by a physician, and finding none except the small pox he would answer accordingly, as he did, never dreaming that he was expected to review the entire period of his life, for instances of an entirely different kind of medical attendance, not disclosed by the question. Possibly he may have stubbed his toes, or cut himself, or bruised a finger, or sprained an ankle, or had a fall many times in his life of more than forty years, for which he may have received some slight medical attendance—who of us has not? But that he should be required to recollect all or any such instances in reply to such a question as this, on peril of forfeiting policies of insurance to the amount of $30,000, when he was not asked for any such information, is simply shocking to every man's sense of right. Not one policy in ten thousand could abide such a test as this. If such be the law such a question as this would be nothing but a t ap to catch the unwary. No court has ever yet given uttera ce to any such doctrine, and if it is now declared to be the law, the vast multitude of persons who hold policies of life insurance, in the pleasant anticipation that their widows and orphans will be provided for when they are gone, will learn to their sorrow that they have been leaning on broken reeds, and that their solemn contracts are as worthless as ropes of sand.

If anything further were needed in support of the rights of these Plaintiffs, it would be proper to say that the attendance of Dr. Stout upon the deceased was not *medical* attendance within the fair meaning of that expression. Dr. Stout says he merely watched Mr. Snyder to see if anything "turned up," and when he

found that nothing "turned up," he ceased his calls. He speaks of simple cooling remedies, but can not state positively that he gave any remedies whatever. He simply observed for effects, and saw none. It is very doubtful, and it is not proved, that there was any medical treatment whatever. We submit that the common understanding of the expression "attended by a physician" is that it imports actual medical treatment accompanied with prescriptions of remedies, and not mere calls for observation. Dr. Stout also answered as the medical examiner of the company (see p. 39 and 40 of No. 289) a flat "no" to question 13, which asked, "Has the party ever had any serious illness or injury? if so, state expressly—(a) how long since; b its nature; (c) its duration; (d) whether any effect is perceptible upon the heart, lungs, kidneys or other organs?" He also had no thought of the trifling occurrence in 1867, although he was directly questioned as to personal injuries, and required to state details.

The cases of *Jeffries and France* so much relied upon by our friends on the other side, do not conflict with any positions we take, or with any principles essential to the determination of the case. The questions addressed to the assured in those cases were precise and definite, carefully describing the particular fact inquired about and the answers were positively and palpably untrue, in the very terms of the questions that were asked. No new doctrine was advanced in either of them. Life insurance companies are very amply protected as it is by the great array of questions to be answered by the party, by a friend and by their own medical examiners, attended also by actual physical examinations of the applicants, and also by the great body of ingenious and artfully contrived stipulations in fine print, which are scarcely ever read by, or explained to, the insured. Such as they are they have received judicial condemnation in several instances. To extend them beyond their plain and necessary import, so that by a refined and strained construction, questions may be held to have

occult meanings, not perceptible to the common mind, simply to enable a company to escape its liability, will we apprehend, not be tolerated by this or any other court.

So also in the matter of points submitted to, and answered by Judges at Nisi Prius, we apprehend that the same law that is administered to other litigants, will be applied to Life Insurance Companies. If a point must be true in the very terms in which it is put, in the one class of cases, it must abide the same test in the other. The interests of society in this class of contracts are too vast, they are too profoundly interwoven with the domestic life of the people, to be frittered away by technical subterfuges without merit, and it is to be ardently hoped that such efforts will receive no greater encouragement than is absolutely required by a sound and enlightened judical conscience.

Third and Fourth Errors. The fourth error assigned has been already fully considered. As to the third, it is only necessary to say that the court went further in behalf of the Defendants in their answer to the fourth point than the terms of the point required. The court was only required to speak of the effect of the evidence as to the attendance for the fall. When the judge had done that, he had complied with every requirement of the point. When he added to his answer. "so if the jury find that the attendance of the physician was for any disease or injury within the meaning of the question, the verdict should be for the Defendants," he gave the Defendants another chance for a verdict, a larger opportunity than they had asked, and now they complain of him for doing this. It happens that there was not a particle of evidence that the attendance of the physician was for any disease whatever, or for any other injury than the fall already indicated in the point, and therefore there is nothing in the case to which the observation can apply. While the remark might possibly have been harmful to us, it is not possible to state, or suggest an aspect of the case or the evidence in which it could be in the least degree harmful to

the Defendants. There is no misdirection in it, there is no omission in it; of what then can the Defendants complain? Nothing in reality. An attempt is made to convict the judge of confusing the jury, and of committing to them the construction of a written instrument. We submit there is not the slightest warrant for either position. It certainly could not confuse the jury to tell them that they should find for the Defendants if there was any attendance of a physician for any disease or injury covered by the question. The question is as simple as human language can make it. Our friends are not consistent. In one breath they argue that the question was very plain and required a simple and direct response, even as to the simple layman, Monroe Snyder, and in the next they contend that it was necessary for the court to explain to the jury what the meaning of the question was, lest the minds of the "simple laymen" who composed the jury might be led astray. We submit that further discussion of these alleged errors is unnecessary.

EDWARD J. FOX,
HENRY GREEN,
For the Defendants in Error.

In the Supreme Court of the United States.

The Mutual Life Insurance Company of New York,
A Corporation created and established by the Laws of the State of New York,
PLAINTIFF IN ERROR,

vs.

ANNA M. SNYDER,
A citizen of Pennsylvania,
DEFENDANT IN ERROR.

October Sessions,
1875.
No. 288.

The Mutual Life Insurance Company of New York,
A Corporation created and established by the Laws of the State of New York,
PLAINTIFF IN ERROR,

vs.

LEWIS W. SNYDER,
A citizen of Pennsylvania,
DEFENDANT IN ERROR.

October Sessions,
1875.
No. 289.

Supplemental Brief for Defendants in Error.

EDWARD J. FOX,
HENRY GREEN,
Counsel for the Defendants in Error.

In the Supreme Court of the United States.

Writ of Error to the Circuit Court of the United States for the Eastern District of Pennsylvania.

The Mutual Life Insurance Company of New York, a corporation created and established by the laws of New York, Plaintiff in Error,		OCTOBER SESSION, 1875. No. 288.
vs.		
Anna M. Snyder, a citizen of Pennsylvania, Defendant in Error.		

The Mutual Life Insurance Company of New York, a corporation created by the laws of the State of New York, Plaintiff in Error,		OCTOBER SESSION, 1875. No. 289.
vs.		
Lewis W. Snyder, a citizen of Pennsylvania, Defendant in Error.		

SUPPLEMENTAL BRIEF FOR DEFENDANTS IN ERROR.

Under our second proposition (Brief, p. 12) we refer to the following cases in addition to those already cited:

Holloman vs. Life Insurance Co., 1 *Woods*, 674.—A declaration that the insured has not previously had a severe disease does not include the ordinary diseases of the country which readily yield to medical treatment, and do not tend to shorten life.

Under our fourth proposition, (Brief, p. 15,) we invoke the aid of the familiar rule that policies of insurance are to be construed liberally in favor of the insured, and against the company, so that the indemnity of the insured may not be defeated. The following authorities are referred to:

May on Insurance p. 182 §175. "No rule in the interpretation of a policy is more fully established, or more imperative and controlling than that which declares that in all cases it must be liberally construed in favor of the insured, so as not to defeat without a plain necessity his claim to the indemnity, which, in making the insurance it was his object to secure. When the words are, without violence, susceptible of two interpretations, that which will sustain his claim and cover the loss must in preference be adopted. (Citing Westfall vs. Hudson River Fire Ins. Co., 2 Duer (N. Y. Supreme Ct.,) 490.) While Courts will extend all reasonable protection to insurers, by allowing them to hedge themselves about by conditions intended to guard against fraud, carelessness, want of interest and the like, they will nevertheless enforce the salutary rule of construction, that as the language of the conditions is theirs, and it is therefore in their power to provide for every proper case, it is to be construed most favorably to the insured. If a question be equivocal, so that it is susceptible of being answered in more than one way, and differently from different points of view, it will not be open to the company which prepares the question to object that it is not answered in the true sense. (Citing *Cropper vs. West. Ins. Co.* 32 *Penna. St. Rep.* 351; *Wilson vs. Hampden Fire Ins. Co.*, 4 *R. I.* 150; *Ætna Ins. Co. vs. Jackson* 16 *B. Monroe* 242; *Bartlett vs. Union Mutual Fire Ins. Co.*, 46 *Me.* 500; *Wilson vs. Conway Ins. Co.*, 4 *R. I.*, 141.)

In *Cropper vs. Western Ins. Co.*, 32 *Penna. St., Rep.* 351, Mr. Justice Strong, in delivering the opinion of the Court, says, on page 354-5, "The inquiry raised by the pleadings relates to the extent of the exception inserted in the policy. It is entirely a question

of construction. The contract was one of insurance upon the hull, tackle, machinery and apparel of a steam propeller, but it stipulates for exemption from liability for certain losses. The stipulation was inserted by the underwriters, and was intended for their benefit. If it be obscure it is their fault. If it be capable of two interpretations, equally reasonable, that must be adopted which is most favorable to the assured, for the language is that of the insurers."

The syllabus of the foregoing case is as follows:

A policy of insurance upon the hull, tackle, machinery and apparel of a steam propeller, contained the following exception: "It is understood that this company is not liable for any breakage or derangement of the engine, or bursting of the boiler, or any of the parts thereof." Held that its purpose was only to relieve the underwriters from liability to indemnify the assured for broken or deranged machinery, and not to exempt them from the obligation to pay for a total loss, even though that loss could be traced back to the breakage of the machinery as its first cause.

Rolker vs. Great West. Ins. Co. 4 *Abb.* (*N. Y.*) 76. An ambiguous policy of insurance is to be construed liberally in favor of the insured. See also *Wells Fargo & Co. vs. Pac. Ins. Co.* 44 *Cal.* 397.

Commercial Ins. Co. vs. Robinson, 64, *Ill.* 265. The rule that equivocal expressions in a policy which would narrow the range of the company's obligations, must be construed most strongly against the company applied; and a proviso that the company should not be liable "for any loss by fire caused by means of an insurrection" &c., "nor for any loss caused by explosion" &c., "of any kind." Held not to exempt the company from liability for loss by fire caused by an explosion, but only from liability for loss caused by explosion.

Merrick vs. Germania Fire Ins. Co. 54, *Penna. St. Rep.* 278. Where the underwriters have left their design doubtful by using obscure language, the construction will be most unfavorable to them. On page 284-5, Judge Strong in delivering the opinion of the Court says, "If it was designed that in case any one of the buildings, or goods in any of the buildings of the Southwark Foundry should be insured by other underwriters whose policy might not cover the whole subject insured by the defendants, then only so much should be insured by the defendants as to cover the loss beyond the sum thus insured by others, it should have been clearly expressed. And if the defendants have left the existence of such a design doubtful by using obscure language, they ought not to complain if they be held to that construction of their language which is most unfavorable to them." * * * "Other questions might be asked, but we are not called upon to determine what the condition does mean. *It is enough if it does not exempt the defendants from a liability which would exist without it.*"

The Franklin Fire Ins. Co. *vs. Brock* 57, *Penna. St. Rep.* (7 *P. F. Smith*) 74. Held that a building in which brooms were made by hand did not come within the description of "mills and manufactories," designated as extra hazardous. A mill within the meaning of the prohibition is not merely a place where something might be ground, nor a manufactory merely where something may be made by hand or machinery, but what *common usage* recognizes as a mill or manufactory respectively. "If words in a policy are of doubtful signification, that meaning is to be adopted which is most favorable to the assured." Per. Strong J. on page 80, at nisi prius, and affirmed by the full bench on certificate.

In the North American Life and Accidental Ins. Co. *vs. Burroughs*, 69, *Penna. St. Rep.* (19 *P. F. Smith*) 43, there is a definition of "accident" as distinguished from "disease" which commends itself to the common sense of all, and which, emanating

from the court of last resort in the state in which this case was tried, may fairly be regarded as a binding judicial precedent.

An "accident" policy of insurance stipulated that no payment in case of accidental death should be made unless notice of the injury and death should be given within thirty days of the happening of either, and sufficient proof furnished the company of such injury, and that the death was caused solely by such injury, and ensued within three months from the happening thereof. Written notice was given that the death was from "an injury received in the bowels while working in a hay field, producing peritoneal inflammation." Proof was subsequently furnished by affidavit of the physician that deceased "was killed by accident, and that the accident was occasioned by exertions made in assisting in hauling in hay, which injured the abdominal muscles, producing peritoneal inflammation," &c. This notice and affidavit made out a prima facie case of death from injury resulting from accident. An accidental strain, resulting in death, is an accidental injury within the meaning of the policy.

Amongst the provisos in the policy was the following: "*And provided further*, That this insurance shall not extend to, or cover, or embrace any death caused by natural disease, surgical operation, unreasonable imprudence." The Company declined to pay, on the ground that the assured died from disease, to wit, peritoneal inflammation, and not from accident. (See p. 45-6-7.) On page 51 Mr. Justice Williams, in delivering the opinion of the Court, says, "But it is said that if the assured strained himself while unloading hay, it was not an accident insured against, within the meaning of the policy. Why not, if he accidentally strained himself, as is averred in the plaintiff's affidavit? Why is not death resulting from an accidental strain as much within the meaning of the policy, as death produced by any other accidental cause? If the injury be accidental, and the result of it death, what matters it whether the injury is caused by a strain or blow? An accident

is "an event that takes place without one's foresight or expectation; an event which proceeds from an unknown cause, or is an unusual effect of a known cause, and therefore not expected; chance, casualty, contingency. And 'accidental' signifies, "Happening by chance, or unexpectedly; taking place, not according to the usual course of things; casual, fortuitous. We speak of a thing as accidental when it falls to us as by chance, and not in the regular course of things, as an accidental meeting, an accidental advantage, etc." (Webster's Dictionary *ad verba.*) If then these words, as used in the policy, are to be understood in their plain and ordinary meaning, as thus defined, they include death from any unexpected event, which happens as by chance, or which does not take place according to the usual course of things. And there is no more reason for regarding an injury of the abdominal muscles, caused by an unexpected blow, an accident, than an injury caused by a casual and unlooked for strain. *If the death of the assured resulted from an accidental strain then it was not "caused by natural disease."*

May on Ins. p. 181 § 174. "Having indemnity for its object, the contract is to be construed liberally to that end, and it is presumably the intention of the insurer that the insured shall understand that in case of loss he is to be protected to the full extent which any fair interpretation will give. The spirit of the rule is that where two interpretations equally fair may be given, that which gives the greater indemnity shall prevail. And to the same spirit is due the rule that conditions and provisos will be strictly construed against the insurers, because they have for their object to limit the scope and defeat the purpose of the principal contract."—Citing *Dow vs. Hope Ins. Co.* 1 *Hall* (*N. Y.*) 174, *Hoffman vs. Ætna Fire Ins. Co.*, 32, *N. Y.*, 405, *Merchants Ins. Co., vs. Edmond* 17 *Gratt* (*Va.*) 138.

Fowkes vs. the Manchester etc. Life Ass. etc., Association, 3, *Best & Smith*, *Q. B.* 917, (113 *E. C. L. R.* 917.) Cockburn, C.

J. on p. 925, says: "In construing an instrument prepared by the Company, and submitted by them to the party effecting the insurance, for his signature, it ought to be read most strongly *contra proferentes;* and inasmuch as upon the construction contended for, the latter clause is wholly unnecessary, I think we ought to construe that clause as merely explanatory of what is meant by the terms correct and true in the former clause. A layman about to effect an insurance would read such a document when submitted to him for his signature in the following sense: 'I agree that my answers to the questions propounded to me by the company, shall be the basis of the contract between us; that is to say that if I am guilty of any fraudulent concealment, or designedly untrue statement in these answers, the policy shall be null and void, and not only that, but the premiums shall be forfeited."

On page 929, Blackburn, J. says: "There are rules of construction which though they may be cited on both sides, furnish several principles for our guidance, and one of those rules is, that in all deeds and instruments the language used by one party is to be construed in the sense in which it would be reasonably understood by the other. If there is any ambiguous phrase another rule of construction which was also known to the civil law, applies, "*Verba chartarum fortius accipiuntur contra proferentem.*" And if the party who proffers an instrument, uses ambiguous words, in the hope that the other side will understand them in a particular sense, and that the Court which has to construe them will give them a different sense the above rules apply, and they ought to be construed in that sense in which a prudent and reasonable man *on the other side*, would understand them." (See the remainder of this opinion.)

It is unnecessary to prolong these citations. We submit that our case comes within every variety and shade of the rule under consideration as illustrated by the foregoing cases. We conclude:

1. That the construction of the seventeenth question for which

we contend, is the only possible and true interpretation of its plain words and necessary meaning, to wit: that it inquired for attendance by a physician for a disease and not for an accident.

2. That if the words of the question are ambiguous, that construction is to be given to them which is most unfavorable to the company.

3. That the words would be reasonably understood by a person about to effect an insurance, as inquiring for the attendance of a physician for *a disease*, and not for an accident, and therefore they should be so interpreted by the court.

4. That in case of doubtful meaning in life policies, that construction must be given which will protect the object of the contract, and will preserve the indemnity.

5. That the words of the question No. 17 are, when considered in the most favorable light for the company, susceptible of two interpretations, and in that event the interpretation which will sustain the plaintiff's claim and cover the loss, must prevail.

6. That the words of the question No. 17, being the words of the company, must be construed most strongly against them.

EDWARD J. FOX,
HENRY GREEN,
For the Defendants in Error.